

## SENATE—Saturday, October 3, 1992

(Legislative day of Wednesday, September 30, 1992)

The Senate met at 12:30 p.m., on the expiration of the recess, and was called to order by the Honorable TERRY SANFORD, a Senator from the State of North Carolina.

## PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

*Thou shalt love the Lord thy God with all thy heart, and with all thy soul, and with all thy mind. This is the first and great commandment. And the second is like unto it, Thou shalt love thy neighbour as thyself. On these two commandments hang all the law and the prophets.*—Matthew 22:37-40.

Eternal God, "love" is a word which seems almost out of place in a political setting, especially at election time. Yet it is the first and great commandment. History is filled with evidence of the power of love to overcome circumstances and win battles where no other force was adequate.

In these days of pressure and tension, help us to take love seriously. Help us to allow it to work in our lives and in our situations.

We pray in His name who is Love incarnate. Amen.

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, October 3, 1992.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TERRY SANFORD, a Senator from the State of North Carolina, to perform the duties of the Chair.

ROBERT C. BYRD,  
President pro tempore.

Mr. SANFORD thereupon assumed the chair as Acting President pro tempore.

## RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

## SCHEDULE

Mr. MITCHELL. Mr. President, am I correct in my understanding that the

Journal of proceedings has been approved to date and the time for the two leaders reserved for their use later in the day?

The ACTING PRESIDENT pro tempore. The majority leader is correct.

Mr. MITCHELL. Mr. President, Members of the Senate, pursuant to two agreements reached last evening, the Senate will today consider the Labor-HHS appropriations bill conference report and the Department of Defense authorization bill conference report. Time limitations are included. Those orders are printed in today's RECORD available for any Senator who wishes to review the details of the agreements.

It is my understanding that the House is just completing action on the Labor-HHS bill, and that should be arriving in the Senate shortly. As soon as it is received, we will proceed to that measure. I will exercise the authority granted me in that order and place it before the Senate.

In the meantime, it is my understanding that the House will be taking up the DOD authorization bill. So by the time we finish the Labor-HHS bill, I hope that we will have received the DOD bill, and we will proceed directly to that following the completion of action on the Labor-HHS bill.

I will be consulting further with the Republican leader regarding the schedule after completion of those two measures, and we will have an announcement for Members of the Senate sometime this afternoon.

Mr. DOLE. Mr. President, it is my understanding there has been no request for a rollcall vote on either of the conference reports. Is that correct?

Mr. MITCHELL. That is correct, Mr. President. I stated last evening, as the distinguished Republican leader will recall, that if we did not receive a request within a reasonable time after my inviting such a request, that I would deem that to mean no request has been made and, therefore, we would act on both measures today by voice vote. That is my intention. No request was received. Therefore, there will not be a rollcall vote on either measure.

Mr. DOLE. On this side there are still a couple of Senators who do not want to miss a vote. They are still here, thinking somebody might jump up and ask for a rollcall vote. If that should occur, would it be possible to have that rollcall vote on Monday morning?

Mr. MITCHELL. If it occurs on either of those two measures, the answer is in

the affirmative. We are still attempting to resolve how to proceed with respect to the NIH reauthorization bill. I hope to discuss that with the Republican leader and with others in the near future and then make an announcement on that, which I hope will embrace the remainder of the weekend and the early part of next week.

Mr. DOLE. I do understand on the NIH reauthorization bill that the motion to proceed, of course, is pending and that Members on our side are willing to have that disposed of by voice vote.

Mr. MITCHELL. I am advised of that. I thank the distinguished Republican leader for that.

Mr. President, I yield the floor. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## TRIBUTE TO SENATOR JAKE GARN

Mr. GORTON. Mr. President, among those of our colleagues who are voluntarily leaving this body at the end of this Congress is the most distinguished senior Senator from Utah, JAKE GARN, a particular friend of this Senator.

I wish to take this opportunity to pay tribute to him as a friend, and as a magnificent contributor to the work of the U.S. Senate and to his beloved country, the United States.

Not one of us, when he or she thinks about the Senator from Utah, fails to mark first Senator GARN's devotion to his family. It is, in fact, that devotion which has caused him to terminate his service here in the U.S. Senate far earlier than is the case with most other individuals, and far before his useful life to his State and to his Nation has been concluded.

Senator GARN wishes to have an opportunity to be with his two younger children during the course of their teenage years, and this is a desire or an ambition with which none of his friends, as much as they wish him to remain in this body, could possibly argue successfully.

JAKE GARN is the epitome and example of a thoughtful and loving husband to his wife and a wonderful father to his several children.

In addition to that extraordinary devotion to a close knit family, Senator GARN is, of course, known for his devotion to NASA and to the American operations in space. The first and the only Senator ever to travel on a space mission himself, Senator GARN, when he took on that task, took it on in a way that he approaches all others—as a fully contributing member of the crew, not simply as a political passenger. Of all of the elements of the Senator's career, I am convinced that this is the one which he regards with the greatest degree of pride and sense of accomplishment. And his sharing those experiences here with other Members of the Senate has contributed in countless ways to the understanding and support for NASA and for America in space.

In fact, NASA could not have chosen a better crewmember for its own public relations and for a public understanding of what it does and what it means to America.

Senator GARN and I have been close friends almost from the time I first came to this body, in part at least because he has often described one of the happiest years of his life taking place on Whidbey Island, WA, while he was a naval officer at a naval air station on that island. My family has had a summer home on Whidbey Island for many years. My daughter is the wife of the present executive officer of the naval air station at which Senator GARN served while he was a junior Navy officer.

Senator GARN has hosted us at his home at Park City, UT, on numerous occasions, and we regard the Garns as very close friends. His devotion to his State, Utah, is exceeded only by his devotion to his family. His concern for the details of legislation as it affected his State and the people he represents has been in the highest traditions of this body. I note that he leaves with a degree of anguish about that reputation, but I suspect that all of us will continue to hear from him whenever matters come before us, which affect either the State of Utah or the American mission in space.

Senator GARN is an example of an individual who serves his family, his church, his community, and his country, in the highest possible fashion. Utah will have a very difficult time in replacing him here in the U.S. Senate, and I know I speak for every Member in wishing him Godspeed, great happiness, and a long and productive life.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. PRESSLER. Mr. President, I ask unanimous consent to speak as if in morning business?

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### THE ORANGE HATS

Mr. PRESSLER. Mr. President, last evening I was privileged to be able to go on patrol with the Orange Hats. The Orange Hats are a group of District of Columbia citizens who patrol the streets with police officers to prevent crime.

In the District of Columbia there is a severe crime problem. Those of us who live in the District are horrified that the number of killings has exceeded 300 this past year. Shootings, beatings, and other crimes average one a day in the District.

It was heartening to me to go to parts of Anacostia last night and tour with Orange Hat citizens who patrol in the evenings. They are voluntary patrols. They do not have very much equipment. They have a few walkie-talkies. If they see something that is unusual they call the police. They do not have the power of arrest. They are just concerned citizens.

We went to three sites last night near Good Hope Road and Minnesota Ave. to patrol with the Orange Hats. I requested our Appropriations Committee to give \$25,000, a very small amount, to the Orange Hats to buy additional walkie-talkies and other needed equipment.

It was very inspirational to see different citizens groups spending parts of their evening patrolling against crime. Also, it is a sad commentary, I suppose, on our society, that in this modern age, with all the technological improvements that we have, the citizens of the District of Columbia, God-minded citizens, have to spend a portion of their evenings patrolling their neighborhood, a neighborhood watch program.

But a group in the southeast particularly inspired me. They join together in prayer at the beginning and end of their patrol, praying for their streets, praying for their homes, so that they could be safe.

Mr. President, I am one of those who has strongly supported our relationship with the District of Columbia. I have been concerned about the increasing crime rates.

I just wanted to take the floor to salute the Orange Hats, the volunteer patrols here in the District of Columbia, who fight crime.

In particular I wish to salute Pape Smurf, Joe Kersene, Ed Johnson,

James Foreman and others who joined me last evening.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. KERRY). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, with good reason, the American people are fed up with Washington and our inability to take effective action against the many serious challenges facing the Nation. Our economy cannot produce jobs, our schools are in crisis, our health care system is out of control, law enforcement fails to cope with the rising tide of crime—yet Congress and the administration are unable to respond to demonstrate the leadership that the people expect in addressing these serious challenges.

To a large extent, we in the Senate are prisoners of our own arcane rules. Yesterday, we pulled a hat trick in reverse. We provided three vivid examples of the system at its worst.

We allowed the National Rifle Association to kill an omnibus, far-reaching, crime bill that would have begun at long last to control the irrepressible proliferation of handguns on our streets and in our neighborhoods.

A major school reform bill was killed—not because of any real controversy over the many innovations and worthwhile provisions it contained, but because of what it did not contain—permission to take scarce Federal tax dollars away from public schools and give them to private schools.

The impasse on this bill is bad enough. In both cases, the Republican minority in the Senate closed ranks and used the Senate rules to prevent action that the vast majority of Democratic Senators supported—and that I believe the vast majority of the American people support as well.

So the gridlock in the Senate was clearly on display yesterday. But the cause of the gridlock was also clear. The American people know who is to blame for the gridlock, and they also know how to break that gridlock—by casting their votes accordingly on election day.

It was the third bill on which we tried to act yesterday—the NIH reauthorization bill—where we saw the system at its worst.

Eighty-five out of one hundred Senators voted to end the filibuster and take action on the bill, which contains dozens of provisions of immense importance to America's continuing leadership in medical research and the battle against cancer and other serious diseases.



But a tiny minority of Senators opposed the bill because of their extremist ideological opposition to biomedical research involving fetal tissue from abortions.

We had debated that issue exhaustively for many months. The system had worked—until the very end. We had reached a compromise on fetal tissue research that was widely acceptable to the vast majority of the Members of the Senate and the House of Representatives.

But the obstructionists had one last weapon—an arcane Senate rule that permits their filibuster to continue for 30 more hours even after the Senate has voted to end it, and that even permits them to start a new filibuster and take another 30 hours of the Senate's time before the bill can finally be passed by the Senate.

How can we permit a tiny band of extremists to defeat the will of 85 percent of the Senate? That is a question we must ask ourselves again and again in the coming months, as we seek to reform the Senate and enable majority rule to work the way it should. We need reasonable protections for the minority, but the power they have in the current situation is unacceptable.

The importance of fetal tissue research is well known. Millions of patients suffering from Parkinson's disease know the tremendous promise of such research. Diabetes sufferers know that promise. Families of millions of Alzheimer's victims know that promise—the list goes on.

For 5 years, despite the importance of fetal tissue research, a small group of Republicans, working with the administration have blocked the research because they say it encourages abortion. But the issue is not abortion, and yesterday's 85 to 12 vote shows that even most antiabortion Senators agree that it is not an abortion issue.

We use vital organs in many other cases, often after individuals die, and no one complains that it encourages murder or suicide. Instead of discarding tissue after abortions, we should be able to use it to save the lives of others. It is a gross distortion of the tragedy of abortion to suggest that a woman would have an abortion to provide tissue for medical research. Stringent safeguards in the legislation would prevent any such possibility.

Last night, after the Senate adjourned, I spoke with Dr. Guy Walden, a fundamentalist minister from Texas who reminded me that every day we delay fetal tissue research, more patients die, more people suffer, more families are in pain because of the suffering of their loved ones.

The NIH is moving ahead to set up the fetal tissue bank the administration has proposed, to test whether ectopic pregnancies and spontaneous abortions can supply enough tissue for the needed research. If not, then there

is broad support for permitting tissue from other abortions to be used for such research.

I have met with representatives of victims of diabetes, of Alzheimer's disease, of Parkinson's disease, and the research community. They have been working in Congress for 5 years to lift the ban on Federal funding of fetal research. They are the real heroes of this battle.

They made this issue a vital one, and they have had remarkable success in turning the Congress around. They have carried the issues for months and months, with visits to Congressmen and numerous calls and letters. They have done it all tirelessly and they should have prevailed. They persuaded a vast majority of Congress to end the ban.

The legislation we voted on made the changes the President asked for in his veto message. The one year his Deputy Secretary of Health said was necessary to test the efficacy of the tissue bank was included in the bill. Authorization levels were reduced to meet the administration's other objections. We read President Bush's earlier veto message. We took him at his word. We changed the bill. A vast majority in Congress, many more than the two-thirds necessary to overturn a Presidential veto, was ready to relieve suffering and save lives.

The vote yesterday proved that just a small group remained in opposition. On the floor and in discussions all afternoon and evening, we were close to agreement on a compromise which would obtain their support for the bill and allow us today to move forward and remove the ban on Federal funding.

Senator HATCH, the leader of the opposition, made an offer he had not made before—lift the ban, but postpone using any fetal tissue from induced abortions for research transplantation for another 27 months in order to determine whether the administration's tissue bank will work.

More waiting means more suffering, and more lives lost.

Virtually all knowledgeable medical experts have concluded that there will not be enough healthy tissue available from ectopic pregnancies and spontaneous abortions to meet the research needs. The experts conducting such research are certain the tissue bank will be inadequate. Lay persons looking at the difficulties of the bank can see how unlikely it is that such tissue will meet the research needs.

On the floor, I immediately made a counteroffer to Senator HATCH. Split the difference. Each side compromises. Give the bank until March 1994 to see if it works.

Why March? Not only was it middle ground, but it had a connection to the schedule at the NIH for applying for and receiving grants.

On the floor, Senator HATCH initially said "no." He wanted a longer time. But discussions continued. We were only 10 months apart. Senator MITCHELL offered to help; so did Senator DOLE. Meetings were held. The discussions went on for many hours.

By evening, after we had consulted further with medical researchers, we thought we were close. A compromise was within reach. But suddenly the situation changed.

The hardest of the hardliners in the Senate and the House became involved, and the negotiations stalled. It was as though the worst of the Houston Republican Convention had arrived to bar the research door and defeat any possible compromise, and keep the filibuster going.

Today we try to pick up the discussions. Hope remains. But the focus must shift to the other end of Pennsylvania Avenue to break the gridlock, and decide whether Alzheimer's patients, diabetes victims, Parkinson's victims and Congress itself are to be held hostage to the narrow agenda of the ultra-right and its minuscule support in Congress.

We need to hear from the leader of the Republican Party. I ask President Bush, where does he stand?

Does he stand with the victims of Alzheimer's disease, Parkinson's disease and diabetes, or with the far right of his party?

Only the President can break this deadlock. If he says he will sign this bill with one or another of the reasonable compromises being offered, the gridlock will end and the bill will pass. Help us, Mr. President.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### UNANIMOUS-CONSENT AGREEMENT—VETO OVERRIDE, S. 12

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate receives the veto message on S. 12, the cable TV bill, that the reading be waived, the message be spread upon the Journal; that the message be laid aside until 5 p.m. on Monday, October 5; that there be 1 hour for debate equally divided between the two leaders or their designees; and that a veto override vote occur at 6 p.m. on Monday, October 5, notwithstanding the provisions of rule XXII.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I thank my colleagues. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### PRESIDENT'S VETO MESSAGE RECEIVED ON S. 12

The PRESIDING OFFICER. The chair advises the Senate that the President's veto message on S. 12 has been received. Pursuant to the order, reading of the message is waived. The message is spread upon the Senate's Journal and further consideration thereof is laid aside until Monday, October 5.

The Senator is recognized.

#### AMERICANS WITH DISABILITIES ACT

Mr. HARKIN. Shortly, we will be taking up the conference report on the Labor-Health and Human Services and Education appropriations bill. Before we do that, I want to take this opportunity, Mr. President, to speak for a few minutes about an industry that has really taken a leadership position in implementing the Americans With Disabilities Act.

Mr. President, on October 1 of this year, I was honored to receive an award related to my work on the Americans With Disabilities Act. The real story today, though, is not my award but the efforts of the industry behind the award to make the Americans with Disabilities Act work in our country.

The Paul Grossinger Memorial Award for Human Endeavor was presented by Bunny Grossinger in honor of her late husband. The Grossingers ran the famous Grossinger Resort in upstate New York for many years. They began a tradition of hiring individuals with disabilities long ago, and by virtue of their leadership in their industry's trade association, the American Hotel and Motel Association, their example sparked an industrywide commitment to individuals with disabilities which is stronger today than ever.

This tradition of hiring is evidenced in hotel chain after hotel chain across our country. Today thousands of individuals with disabilities work in the hotel industry, and hotels are eager to hire more of these dependable hard working people.

David Kenney, 1992 chairman of the American Hotel and Motel Association, has dedicated his year of leadership to promoting ADA among hotels and motels. Dave told me that in every speech he makes he praises the work records of individuals with disabilities he has known in his three decades in the industry, and encourages hoteliers he ad-

resses to make their properties accessible.

This tradition and leadership has yielded positive results. American Hotel and Motel Association was one of the few trade associations awarded a grant by the Department of Justice to help in spreading the word about the ADA. The association responded by developing a comprehensive series of hotel seminars throughout the country. Almost 5,000 hotel executives participated in the 60-plus seminars.

The association has also developed a compliance handbook called appropriately enough, "Accommodating All Guests: The ADA and the Lodging Industry." They were kind enough to present me with a copy. As I reviewed it, I found it thorough and easy to understand.

This is it, Mr. President, "Accommodating All Guests: The Americans With Disabilities Act and The Lodging Industry." It is put out by the American Motel and Hotel Association. It is a comprehensive book and spells out all of the details that are in the Americans With Disabilities Act and does it in a straightforward, honest manner, basically giving the information to people in their industries, what they have to do, from transportation accommodations and everything like that.

Mr. President, I have not seen yet a book that is as comprehensive and as straightforward and as easy to understand as this one, to give individuals in the private sector the kind of information they need to make their business successful and in compliance with the ADA.

No wonder the association has distributed 40,000 copies of the book and is planning a second printing. I was pleased to see such commitment by the lodging industry to a law as dear to my heart as the ADA.

This involvement of the hotel and motel industry with the ADA is a classic win/win situation. The travel industry is hurting today, particularly hotels. They need all the guests they can get, and they are preparing for the 43 million Americans set free by this law. This market has the potential to create jobs in the industry. And where do hotels turn for more employees?—those same 43 million Americans.

These citizens have the potential to be great travelers and great employees. I encourage other industries to follow the lead of the hotel industry and take advantage of this untapped national treasure.

I would like to inform my colleagues that November 29 through December 5, 1992, is the "Second Annual Travelers With Disabilities Awareness Week," sponsored by the Society for the Advancement of Travel for the Handicapped. This is a weeklong campaign designed to promote awareness of an attitude of respect for and accessibility to accommodate travelers with disabilities.

Mr. President, in closing, I would like to share with my colleagues the experience of one hotel guest who is deaf. In a letter written to the Imperial Palace Hotel in Las Vegas, Betty Longwith said that the television decoder, the telephone for the deaf and other accommodations made her stay most enjoyable. With these accommodations, she was able to call her husband, watch the evening news and, for the first time in her life, order room service. She wrote, "Can you imagine the thrill of being able to pick up the phone and order room service?" Betty had a very enjoyable stay and this hotel has a repeat customer.

Mr. President, I ask unanimous consent that the full text of the letter be entered in the RECORD.

NASHVILLE, TN, March 8, 1992.

Re hearing impaired facilities.

IMPERIAL PALACE,  
Las Vegas, NV.

DEAR EVERYBODY: Please make sure that everyone connected with handling the hearing impaired at your hotel sees this letter of appreciation.

We are still trying to digest the fabulous treatment we received at your hotel last week. It was unbelievable for so much to be done with the disability law so new.

Although I am founder and past president of the world wide Cochlear Implant Club International and have traveled hundreds of thousands of miles for deaf causes, I'd forgotten about the bill being effective now, and I didn't even think to ask for such accommodations when we called in for reservations.

At the check in desk, when I told the nice young man I was deaf he quickly said "you will be needing a hearing impaired room" and within a few short minutes, we were ushered into a very nice room with the light on the door to alert us when someone knocked. Before we could open a suitcase another nice man was there with a television decoder, telephone and clock. He was so gracious in showing us how to operate all of it. And someone even checked back on us to see how we were doing with all of the equipment!

It was so comforting to pick up that telephone and call home and talk to Wallace. He was stunned to get the call! It was super good to turn on the television set while resting from the slots and poker machines and be able to find out what was going on in the world through the closed captions. And the clock was a lifesaver.

Besides calling home, two other events were milestones for me. This was my fourth trip in one year to the Imperial Palace and the first time I have been able to call for a bellboy to come for luggage instead of dragging it though the casino. I loved that. But my biggest thrill was getting room service. I have been alone in hotels so much and especially late at night I've been hungry or thirsty but did not want to take a chance on roaming around late at night with my deafness. Can you ever imagine the thrill of being able to pick up that phone and order room service?

I am writing the newspapers there and here about our wonderful experience so look for your little bit of advertisement. It's the least I can do. And Wallace and I will be back in May for the pool tournament. We can hardly wait. In the meantime, please know that your efforts on behalf of the children of a lesser god have meant more to us



than we could ever say and we do thank and God bless you one and all.

BETTY MEADOWS LONGWITH.

DEPARTMENTS OF LABOR,  
HEALTH AND HUMAN SERVICES,  
EDUCATION, AND RELATED  
AGENCIES APPROPRIATIONS  
ACT, FISCAL YEAR 1993—CON-  
FERENCE REPORT

Mr. HARKIN. Mr. President, I submit a report of the committee of conference on H.R. 5677 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5677) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1993, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 1, 1992.)

The PRESIDING OFFICER. The Chair would advise Senators that there will now be 1 hour of debate on the conference report and the amendments in disagreement, to be equally divided between the two managers or their designees, with an additional 20 minutes of debate reserved under the control of the Senator from Florida [Mr. GRAHAM].

Mr. HARKIN. Mr. President, I am pleased to report to the Members of the Senate that we had a very successful conference with the House. Not only were we able to protect all the important funding initiatives of the Senate but we were able to complete action on all 242 Senate amendments to the House bill in just over 6 hours.

The conference agreement now before the Senate is within the 602(b) ceiling and is below the level as requested by the President. Several items that the administration has objected to have been excluded by conference action. We have, therefore, been assured that the bill will be signed by the President.

Mr. President, the conference agreement before the Members totals \$241.3 billion; of that total \$62,145,195,000 is for discretionary budget authority under the direct control of the subcommittee. The remaining \$179.1 billion is for mandatory programs funded by the subcommittee. Discretionary spending provided in the conference

agreement under our 602(b) allocation grows only 2.8, or \$1.7 billion, over the amount provided last year. The conference agreement for discretionary spending is \$30 million below the amount provided by the Senate passed bill.

The initial agreements reached by the conferees were reduced by 0.8 percent to bring the bill into balance. While we made every effort to avoid using an across-the-board cut, I am pleased to report that the cut is only 0.8 percent, a less than 1 percent across-the-board cut.

Mr. President, there are many important features of this bill, but with sine die adjournment just hours away, I will not take the time of the Members to discuss the agreement in any detail. I would like to mention just a few highlights.

The conference agreement includes the full amount recommended by the Senate for the Low Income Home Energy Program, reduced only by the across-the-board 0.8 percent cut. This also includes advanced funding for fiscal year 1994, as was recently authorized in law.

The conference agreement includes the President's full request for Head Start, less the 0.8 percent across-the-board cut.

The conference agreement provides a \$291 million increase for NIH over the levels provided last year. The agreement protects the very generous increases provided by the Senate passed bill for gender specific cancer research.

The conference agreement provides \$7,455,995,000 for student financial assistance. This is a \$559 million or 8.2 percent more than last year. For Pell grants we have included \$5,997,690,000.

The conference agreement includes substantial increases for many important prevention programs, as proposed by the Senate. For example, the Senate included large increases over both the House and the President's request for Center for Disease Control's Preventive Health Services block grant, for the maternal and child health care program, and for the family planning program. These increases are included in the conference agreement, again reduced only by the 0.8 percent across-the-board cut.

Mr. President, the conference agreement includes a number of significant increases for health services programs as proposed by the Senate. For example, the Senate bill included significant increases for the substance abuse block grant, for Ryan White emergency assistance programs, and for the breast and cervical cancer or screening program at the Center for Disease Control. These increases are included in the conference agreement, again reduced only by the 0.8 percent across-the-board cut.

Mr. President, there are many more important details in this bill, these are

only highlights that I know were important to a great many Members of the Senate. At this point, Mr. President, I thank Senator SPECTER, the ranking member of the subcommittee for his excellent assistance and guidance throughout the year. He and his staff have been most gracious, most successful, and more than willing to work with our staff in hammering out this bill. It has been a tough year. As I said, we only had a 2.8-percent increase over last year, so we were actually below the rate of inflation. I am sorry to say many programs could not get that kind of increase this year.

We worked together and we had a good working relationship and were able to get a bill through, as I said with only 6 hours of conference with the House.

I also publicly thank Chairman NATCHER, my House counterpart, and ranking member, Congressman PURCELL, for excellent cooperation again this year. This is Congressman PURCELL's last year in the House. I had the privilege of serving with him in the other body and, of course, serving with him on numerous conference committees over the past few years. He has been an excellent public servant. He will be sorely missed.

Congressman NATCHER, as we all know, is a true gentleman, a great appropriator, someone with whom I look forward to working with again next year and many years in the future.

Mr. President, Senator SPECTER could not be here today to be with us for the vote on final passage of the bill, but I can assure you and everyone else that Senator SPECTER has been there every step of the way in developing this bill in all of the efforts that we expended to meet the great needs of health, human services, and education.

He is, however, represented here today by another distinguished member of our subcommittee, the Senator from Washington, Senator GORTON, who helped to manage the bill in conference, who again helped us develop the bill as we went through this entire year.

So, again, I publicly thank Senator GORTON for his help through the year and for his help on the conference and to be here today to manage the bill for the minority side.

I yield to him for any opening comments that he would like to make.

I yield the floor.

The PRESIDING OFFICER (Mr. AKAKA). The Senator from Washington [Mr. GORTON] is recognized.

Mr. GORTON. Mr. President, first, I yield to Senator SPECTER and then to Senator HATFIELD for their remarks.

Mr. SPECTER. Mr. President, I join the chairman of the subcommittee, the distinguished Senator from Iowa, in supporting the conference report that is before the Senate today. This year, as in the past, the subcommittee allo-

cation was insufficient to adequately meet the health and welfare, job training and education needs. I want to take this opportunity to thank the distinguished Senator from Iowa for putting together this very comprehensive conference agreement.

The conference agreement before us today totals more than \$245.7 billion, including \$62.1 billion in discretionary spending, and provides funding for educating elementary and secondary children as well as providing grants and loans for higher education, retraining this Nation's work force, and improving health and welfare services.

#### BIOMEDICAL RESEARCH

This agreement includes \$10.4 billion for the National Institutes of Health, an increase of \$291.2 million above last year's level. These funds will continue to expand the important research needed to develop the means to find the answers to help treat and cure diseases such as cancer, heart disease, diabetes, mental illness, and arthritis as well as the many other illnesses that afflict the people of this Nation.

#### BREAST CANCER

Breast cancer is the most commonly diagnosed cancer in America today with approximately 1.8 million women afflicted with the disease and an additional 1 million women who have yet to be diagnosed. The incidence of this disease continues to rise and every 12 minutes a woman dies of this dreaded illness. The conference agreement this year provides \$209 million for research programs for breast cancer, an increase of \$76 million over the previous year's funding. The agreement also includes \$72.4 million for breast and cervical cancer screening. Again this year, the conferees have reiterated the concern that the highest priority be placed on expanding funding for women's health, including breast, cervical and ovarian cancer.

#### HEALTHY START

The conference report contains \$79.4 million for healthy start. This demonstration program is intended to reduce the infant mortality rate by 50 percent over the next 5 years in targeted urban and rural areas across the country. I became acutely aware of this problem after visiting hospitals in Pittsburgh and Philadelphia and seeing first hand the tragedy of 1-pound babies. These infants who have been exposed to drugs, alcohol, or tobacco in utero are more likely to be born prematurely and of low birth weight with an increased risk of dying in their first year of life or suffering from long-term disabilities.

#### FAMILY VIOLENCE

Battering continues to be the single largest cause of injury to women in the United States. In Pennsylvania, 800,000 women are assaulted in their own homes each year. To help in the movement to end domestic violence, the bill

contains \$24.8 million. These funds will assist victims and their dependents with immediate shelter, self help, and substance abuse counseling.

#### ALZHEIMER'S RESEARCH

Today, over 4 million Americans suffer from Alzheimer's disease, one of our Nation's most tragic and costly health problems. This disease wastes precious human resources, demands prolonged periods of care and drains over \$90 billion from the national treasury and the personal savings of families. To help combat this disorder this conference agreement provides \$294 million for research to find the cause, treatment, and means to prevent Alzheimer's disease. This agreement also includes \$4.9 million for a State demonstration program to help ease the burden on families caring for an Alzheimer victim.

#### AIDS

Mr. President, the World Health Organization estimates that 8 to 10 million people are currently infected with the HIV virus. The bill before us today provides over \$2 billion to confront this disease, care for its victims and continue the search for treatment and cure.

Because of their unique vulnerabilities, infants suffering from AIDS required specially tailored approaches for treatment, prevention, and care this bill contains \$20.1 million for pediatric AIDS demonstration programs to develop and provide comprehensive services to children and families battling HIV infection.

#### REFUGEE ASSISTANCE

The conference agreement includes \$381.5 million for domestic refugee resettlement services. This was a matter on which the House and Senate had substantial difference of over \$80 million. While I would have preferred that the House would have receded to the Senate level of \$405.1 million, I am pleased that the agreement reflects three quarters of the increase provided by the Senate. The conference report also will permit the Office of Refugee Resettlement to continue to develop proposals to reform and improve the administration of refugee cash and medical assistance services.

#### EDUCATION

Mr. President, I am proud of the fact that this bill contains \$31.3 billion for education programs, an increase of \$1.9 billion for education programs, an increase of \$1.9 billion over the fiscal year 1992 funding levels. Unfortunately, because of very severe budget constraints, this bill does not contain all of the funds I would like to have seen spent on achieving the education goals. However, it is a start. This agreement includes \$10.3 billion for student aid programs, including Pell grants for the most disadvantaged students and low interest loans. Also recommended is \$1.4 billion for vocational and adult education programs, \$6.7 billion for

chapter 1 grants for the disadvantaged and \$146.1 million for programs to improve library and literacy services. Also included is \$3.4 million for a new program to educate young people to assume a wide variety of leadership roles in both the public and private sector.

In addition, \$2.7 billion has been included for the Head Start Program; an increase of \$600 million over the amount provided in fiscal year 1992.

#### LIHEAP

A program that is of critical importance to Pennsylvania is the Low Income Home Energy Assistance Program. Funding for this program supports grants to States to deliver assistance to low-income households to help meet the growing costs of heating and cooling their homes. This conference report includes \$1,350,000,000 in fiscal year 1993. Also included is an advance appropriation of \$1,437,000,000 for fiscal year 1994 with \$142,000,000 of this amount available to reimburse costs incurred in fiscal year 1993. This will permit a program level in fiscal year 1993 of nearly \$1.5 billion.

#### SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES (SAMHSA)

The conference report before us today includes over \$2 billion for the newly created Substance Abuse and Mental Health Services Administration. These funds will continue to support State mental health planning grants, demonstration programs involving IV drug abusers, pregnant, and postpartum women and their infants.

In reviewing the current distribution of full time equivalent positions within SAMHSA I have serious concerns about whether the current staff levels will enable all three centers to adequately perform the mandated functions. I am particularly concerned that although additional programs have been transferred to the Center for Substance Abuse Treatment [CSAT] the level of FTE's assigned to that center seems woefully inadequate. According to an August 17, 1992 report produced by the ADAMHA Division of Personnel Management, a total of 668 FTE's were projected to be assigned to SAMHSA. The expected distribution of personnel was: Office of the Administrator—136-147, Center for Substance Abuse Prevention [CSAP] 197, Center for Substance Abuse Treatment [CSAT] 181, and Center for Mental Health Services 143.

It is my understanding that although the Center for Mental Health Services currently has 143 FTE's and the Center for Substance Abuse Prevention has 185 personnel, the Center for Substance Abuse Treatment has 125 FTE's, 56 less than had been projected. This inequity in FTE levels threatens the ability of SAMHSA to carry out its mandate to provide leadership in improving drug and alcohol treatment in this country. I raise the health issue because in restoring funds to the Department of Health and Human Services, salaries



and expenses account, the Secretary of HHS and Administrator of SAMHSA now have greater flexibility in correcting this inadequacy. Since I know that they share my commitment to mental health services and substance abuse treatment and prevention, I am confident that this issue will be swiftly resolved.

In closing, Mr. President, I again want to thank Senator HARKIN and his staff and the other Senators on the subcommittee for their cooperation in a very tough budget year.

Mr. HATFIELD. Mr. President, I join the chairman of the subcommittee, the distinguished Senator from Iowa, in supporting the conference report that is before the Senate today. I want to take this opportunity to thank Senators HARKIN and SPECTER as well as the other members of the subcommittee for bringing before the Senate such a comprehensive bill under very tight budget constraints.

This agreement contains \$245.7 billion and encompasses a wide range of programs which will serve the people of this Nation in improving job opportunities, educational excellence, and biomedical research advances.

#### BIOMEDICAL RESEARCH

The conference agreement before us today contains \$10.3 billion to continue the support of the National Institutes of Health. These funds will expand this Nation's medical research into the causes, treatment, and cures of the vast array of diseases and illnesses that are only beginning to be understood. The funds not only will provide the country with enhanced health and health care, but a strengthened economy and an improved competitive position in the world market.

#### ALZHEIMER'S DISEASE

Last year, I urged the Senate to embark on a national program to rid this country of the scourge of Alzheimer's, a disease that affects 4 million Americans. We set a goal of \$500 million, the amount scientists say is needed to mount a full scale attack on this dread disease. I am pleased to report that this effort is beginning to pay off. Last week, scientists uncovered important new information that will help in our efforts to develop new drugs to treat or perhaps reverse this disease. I am therefore pleased that this conference agreement includes \$300 million, including \$295 million for research, and \$4.9 million for the State grant program to help families caring for Alzheimer's patients at home.

#### AIDS

Mr. President, few could argue with the fact that AIDS, a disease that was virtually unheard of a dozen years ago, continues to plague our society. The conference agreement includes \$2.1 billion to continue the strong commitment to research, prevention, and treatment programs to fight this dread

disease. The agreement also includes \$348 million for early intervention, comprehensive care, and aid to cities hardest hit by the disease.

#### FAMILY AND COMMUNITY SUPPORT SERVICES

During these difficult economic times many families and communities are struggling to meet the basic needs, such as food, housing, clothing, transportation, and medical care. I am pleased, therefore, that the conference agreement reflects substantially the recommendations for low-income services programs, such as the community services block grant, the Low Income Home Energy Assistance Program and refugee resettlement assistance.

For the community services block grant, the agreement provides \$372 million. This is an increase of \$12 million above the level recommended by the House and reflects a rejection of the proposal by the administration to eliminate the funding for this program. These funds will support the delivery of antipoverty and supportive services by over 900 community action agencies operating out of over 4,000 outreach centers in communities throughout the country.

For the Low Income Home Energy Assistance Program, the agreement recommends a total of \$2.7 billion for energy assistance to low-income households in fiscal years 1993 and 1994. The agreement reflects the decision of the conferees to agree to the Senate recommendation of \$1.3 billion for the program in fiscal year 1993, an increase of over \$400 million over the level recommended by the House and \$200 million over the President's request.

Finally, the conference report provides \$381.5 million for refugee and entrant assistance programs and services. While this amount is \$23 million below the Senate bill, it represents an increase of nearly \$60 million above the House and \$154 million above the President's budget request. The conferees also included language in the conference report outlining the parameters for development and implementation of any major program change with regard to the administration of refugee cash and medical assistance. This, in my view, was essential in order to ensure that refugee services are maintained and that all refugees have an equitable level of services.

#### EDUCATION

Mr. President, by far the most direct, rewarding, and important investment in our children and youth is education. I think we have all come to recognize that a strong investment in education is essential for our national economic growth and security. The conference agreement provides \$31.3 billion for education programs, an increase of \$1.9 billion over last year's funding level. I am also pleased to report that funding for Eisenhower Math and Science Education Programs has increased \$8 million over last year's level to \$248 mil-

lion, math and science consortia is increased to \$13.6 and \$3.4 million is recommended for clearinghouse activities. Also included at my urging is \$1 million for a before and after school program to create safe havens for intercity youth.

I am also happy to report that Head Start funding has increased \$600 million over the fiscal year 1992 level to \$2.7 billion.

#### URBAN GRANTS

Mr. President, many of the urban universities across this Nation play an important role in contributing to the needs and priorities of the cities in which they are located. To help these universities in their efforts, this bill contains \$9.4 million to provide grants to urban universities to encourage community involvement in solving education, health, crime, and economic development problems exclusive to their particular urban area.

#### STUDENT FINANCIAL ASSISTANCE

The agreement includes \$10.3 billion to help this Nation's youth achieve a college education by providing grants to the neediest students and low interest loans.

#### FOREIGN LANGUAGE ASSISTANCE

This Nation must improve the quality and quantity of instruction in foreign languages. These languages are critical to our economic and security interests. Language instruction must be started in the early grades to give students the opportunity to obtain useful levels of efficiency. This bill includes \$10.9 million for grants to help schools with this endeavor.

#### LIBRARIES

And finally Mr. President, I want to bring to the attention of the Senate the important role libraries play in supporting and strengthening a student's education in this country. This bill helps bolster that support by providing \$146.1 million for library services and construction, career training and literacy programs.

Mr. GORTON. Mr. President, I wish to echo the remarks of the chairman of the subcommittee, my friend and colleague from Iowa, Senator HARKIN. This is the culmination of almost a year's very, very hard work on his part and by the members of the subcommittee and, of course, members of the staff.

Senator HARKIN has had an unenviable task in dealing with requests totaling literally tens of billions of dollars, almost without exception, requests for important national priorities in the field of job training, in the field of education, up and down the line, in a myriad of health fields for treatment and prevention, for research, for experimentation. And as a member of the subcommittee in only his second year in such an assignment, this Senator can say how difficult it is to reconcile so many requests for so many important programs.

The Senator from Iowa has done a magnificent job of attempting to distribute a very, very large amount of money in an absolute sense but in some respects a relatively small amount of money when measured against the demand and, for that matter, the need for the kinds of services which are provided by this subcommittee.

Perhaps as early as next year or the year after this, the subcommittee will have under its jurisdiction more dollars in overall spending than any other subcommittee which itself will reflect the importance of the work which it does. I am privileged to be a member of the subcommittee and to have played a role in putting this bill together. But primary credit goes to the Senator from Iowa who has worked so hard and so long on it.

The Senator from Iowa has already pointed out that we operated under very constrained circumstances this year. Nevertheless, there are a number of important areas in which increases in programming has been significant for Head Start, for the National Institutes of Health, for the Centers for Disease Control, for the Corporation for Public Broadcasting, among others, but we were engaged in a zero sum game. Once the total ceiling was established an increase in one program inevitably meant a decrease in another program.

Suffice it to say, this is a responsible proposal. It is a proposal which the President of the United States can sign. It is a proposal which for another year will give a degree of certainty for all of those organizations and individuals which benefit from it. It has had stripped from it much of the legislative addenda which was controversial in nature both on the floor of the Senate during the original debate on the bill and in the other House as well.

Finally, I would like to join the chairman of the subcommittee in paying tribute, more particularly, to the chairman of the House subcommittee, Congressman NATCHER.

The last 2 years, during the course of conference committees, has been my first opportunity to get to know and to deal with that absolutely extraordinary individual, a man who seems to be able to keep the details of almost every program in this bill in his own mind, who has extremely strong views about the nature of his priorities but who, to the maximum possible extent, the desires and the priorities of others.

Hard work in this case, I believe, has produced as responsible a bill as could have been found under the circumstances. I commend it to my colleagues, and I hope that it will be promptly passed and sent to the President and signed.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I thank Senator GORTON for his kind remarks

and, again, for his outstanding help and assistance in getting this bill through.

I say to him that I look forward to working with him next year on this bill, too. Hopefully, we will have a little bit better bill next year and it will be a little bit easier than what we have had in getting this bill completed.

#### REFUGEE RESETTLEMENT PROGRAMS

Mr. HATFIELD. I want to thank the chairman and the ranking member who have provided important leadership on behalf of the many important programs and services in the Labor, HHS and Education appropriations bill. I am particularly grateful for your leadership on issues relating to funding of domestic resettlement programs for refugees. His leadership has produced a budget in these difficult times that I believe is workable. However, there are areas that I would like to clarify with the distinguished chairman.

Mr. HARKIN. I thank the Senator for his generous comments and for his support during this process. His leadership has provided enthusiasm and stability during a very difficult economic period. I would be pleased to clarify any matter with him from our recent conference deliberations.

Mr. HATFIELD. The conference agreement, while not endorsing or prohibiting implementation of a privatization of the administration of refugee cash and medical assistance services, does allow the Office of Refugee Resettlement to pursue development of this option. As the Senator is aware, this reform is a concept on which I have some grave reservations, and would like to clarify for the record a couple of items.

First, was it the intention of the conferees that the funds appropriated for social services and targeted assistance are intended to be allocated to State and local governments for refugee programs and services and not intended as general discretionary funds for the Director?

Mr. HARKIN. The Senator is correct. The conference report states specifically that these funds are intended for State-administered programs and services.

Mr. HATFIELD. As I stated earlier, I have reservations about the administration's reform proposal and am not convinced that turning administration of the cash and medical assistance program over to voluntary agencies is the most effective method for administration in all States and communities. In Oregon, for example, the program is jointly administered by the State, local voluntary agencies and mutual assistance associations. This approach has proven effective in my State, and I am pleased the Office of Refugee Resettlement has agreed to continue support for the Oregon demonstration program.

Because of my lingering concerns, I would like to recommend that the au-

thorizing committees maintain careful oversight as this Private Resettlement Program [PRP] is developed and implemented.

Two specific areas of oversight are critical. I am concerned about adequate notification to States and the well-being of the affected refugees relating to the termination of the State-managed cash and medical assistance programs. In particular, it is essential that adequate review of any restructuring of the medical program occur prior to its implementation.

Finally, as I stated in a letter to the chairman of the authorizing committee earlier this year, I have grave concerns about equitable access and treatment for all refugees throughout the States under a privately administered program. As you know, the present program assures equitable access and treatment for all refugees. However, with the proposed restructuring of the program I fear we will find many areas of our country where refugees will not be able to be served.

Mr. HARKIN. I thank the Senator for his thoughtful comments. As he knows, the conference report requires that any major program changes comport with criteria previously outlined by the authorizing committees and I share his concern that the authorizing committees maintain oversight over these matters he has raised.

Mr. GRAHAM. I add my thanks to the Senator from Iowa for his leadership in support of the refugee program. I appreciate the clarification he has offered in response to the distinguished ranking member of the Appropriations Committee. I also have a question for the subcommittee chairman.

In the conference report, the conferees address concerns about the program shift as the Office of Refugee Resettlement proceeds with its privatization initiative. Clearly, at some point the States need to know whether they will continue to administer the cash and medical assistance portion of the refugee program.

Already the target date for implementing the Private Refugee Program [PRP] has been pushed back until February. Everyone agrees that a certain point in the fiscal year exists after which excessive drawdowns will make privatization impossible during fiscal year 1993. My concern is that ORR will notify States of its intent to switch to the PRP before all the details have been worked out. If so, the great possibility exists that we will expect the State to take responsibility for continuing to administer the entire refugee program through the end of the fiscal year, without allowing them sufficient notice.

Therefore, I am seeking assurance that ORR must provide ample advance notice before terminating the current programs, which are principally run by the States and localities. Given the ad-



ministrative procedures which must be undertaken either to terminate or restart the program, 90 days seems to me a bare minimum notice which the States should be able to expect from ORR.

So, I would like the assurance of the distinguished chairman of this subcommittee that it is the intention of the conferees to allow these funds to continue to be used in the current program until at least 90 days after ORR has officially notified the States of impending program changes. Furthermore, and this is a key and separate point, I want to be sure that the conferees intend that such notification only be made after a comparable medical care system has been certified by the Secretary of HHS and the contracts have been prepared which guarantee the right of the refugees to appeal sanctions or unequal income maintenance treatment.

Mr. HARKIN. Yes, I agree with the Senator from Florida. While I am not certain what is the precise number of days, it is clearly our intention that States must be given substantial notice to discontinue services, and the conditions you have outlined must exist before such notification is given.

Mr. GRAHAM. I am pleased to have this issue clarified for the RECORD, so that ORR can be certain of congressional intent on this critical matter. I thank the chairman.

Mr. REID. Mr. President, I would like to commend the distinguished chairman of the Appropriations Subcommittee on Labor, Health and Human Services, and Education, the Senator from Iowa [Mr. HARKIN], for his tireless leadership and excellent work in drafting the conference report on H.R. 5677, now being considered by the Senate. With great skill and compassion, he has worked under considerable restraints to craft a consensus package that is designed to benefit those served by the many critical social programs under the subcommittee's jurisdiction.

Mr. President, I would also like to commend the Senator from Iowa [Mr. HARKIN] for his work with me to set aside funds within the appropriation for the Older Americans Act to study and research the efficacy and benefits of art, dance/movement, and music therapy for older Americans. The Special Committee on Aging, upon which I serve, has conducted two hearings on the benefits of these innovative approaches. These hearings documented the serious research that has been done in these fields. The evidence we compiled indicates that while these therapies show great promise, more needs to be done to refine and document their effects upon human health.

As a member of the Aging Committee and the Appropriations Subcommittee, I will watch very closely how the Administration on Aging [AOA] oversees the conduct of research and demonstra-

tion projects in these fields. I expect that AOA will adhere to the report of the Senate Committee on Appropriations with regard to the resources that are to be dedicated to these projects.

The language in the Senate report requires some clarification. It is my expectation that in following the general guidelines laid out in the report, the AOA will exercise its discretion in determining how best to award grants. The purpose of the committee in directing and AOA to conduct study in these fields is to find the best ways of improving the health and quality of life for older Americans. I believe AOA is well equipped to determine how best to award funds based upon the principle that, through a competitive process, the best projects with the greatest prospect for improving the lives of older Americans will be selected.

The Senate report indicates that these projects might be "administered through a competitive grant to an organization representing certified therapists." This language could have unintended consequences because neither art nor dance/movement therapists use a certification process. This was a technical error in drafting the report, and should not in any way be interpreted by the AOA to mean that the committee intended that organizations representing art or dance/movement therapists be excluded from being awarded grants. The committee intended there to be a level playing field so that organizations representing all of these fields should be eligible for funding, as AOA best sees fit. Further, the committee expects that AOA should award grants to as many agencies as it considers appropriate, not necessarily to only a single organization. The overriding priority that is made explicit in the report, and over which the AOA should not exercise discretion, is that the full amount that the committee made available for these studies be used for the purpose the committee intended.

Mr. President, I urge the adoption of the conference report on H.R. 5677.

#### THE CHICAGO HEALTH INITIATIVE

Mr. SIMON. Mr. President, I would like to talk briefly with the chairman of the subcommittee about a creative health project in Chicago. I believe the chairman is familiar with the program—the Chicago Health Initiative.

The Chicago Health Initiative works in conjunction with a number of entities—community based organizations, local health care offices, church related groups and others providing basic health care to the Chicago community. Together, by targeting specific groups, they increase the health care resources available for prevention and treatment. I understand that the parent organization of the Chicago Health Initiative—Lutheran General HealthSystem, testified before your subcommittee earlier this year.

Mr. HARKIN. That is correct.

Mr. SIMON. I understand that, while the Chicago Health Initiative was interested in being designated to receive money through this appropriations bill, their program does not meet any of the funding categories contained in the bill.

For the Chicago Health Initiative to receive Federal funding, proposals will have to be submitted directly to HHS. I anticipate that I will be working with this project in the year to come to identify and compete for grants that will support and enhance the good work they are already doing.

I would welcome the involvement of the chairman of the subcommittee in those efforts.

Mr. HARKIN. I thank the Senator from Illinois. I, too, was impressed with the work being done by the Chicago Health Initiative and believe they should explore options at the Department of Health and Human Services.

#### AIDS CLINICAL TRIAL GROUP PROGRAM

Mr. JOHNSTON. Mr. President, in fiscal year 1992, the recompetition selection process of AIDS clinical trial centers by the National Institute for Allergy and Infectious Diseases [NIAID] resulted in the funding of 28 centers. This decision provides funding for these centers for the next 4 years. These centers, in addition to providing much needed care and services to AIDS patients, conduct very important studies to test the efficacy of potential drugs and drug combinations for the treatment of HIV infection and resultant illnesses in adults and in children. Because of their important contributions to these studies, seven centers, previously funded but not selected in this competition, received funding from NIAID to continue their important programs and serve enrolled patients through December 31, 1992.

There is no question that these seven centers submitted meritorious applications and received good technical evaluation scores during peer review. There was absolutely no scientific basis for the discontinuation of these units. The continuation of these programs through 1993, verify their importance to the overall goal of AIDS research and care.

If any of these centers which received a reprieve go out of operation as of December 31, 1992, this would mean that those adults currently receiving treatment at these centers for AIDS will not have access to the cutting-edge experimental drugs and treatment therapies they now have, unless they can get to and be accepted in one of the other adult ACTU Centers. Mr. Chairman, many of these patients have been very ill for a long time and for many of them the resources and stamina required to relocate near, or travel to, another center does not exist. Consequently, they will have to drop out of the trials program altogether.

This is of particular concern for those adult patients now being served at a center in New Orleans, LA. The center is located at the Tulane and LSU medical schools. On average since its establishment in 1987, this adult unit has been serving 135 active patients at all times, many of whom receive all of their medical care from the center's research time. Without the center, these patients have no plausible alternative to receiving the critical care they require. I'd also note that these patients come from throughout the southern Gulf States region—many from Louisiana, but also from Mississippi, southern Alabama and the Florida Panhandle region. If this unit in New Orleans closes, the nearest alternative treatment centers for these patients will be centers in Birmingham, AL—some 340 miles away—and in Galveston, TX—over 350 miles away. I wish to reemphasize that in the vast majority of cases, the resources and stamina required to travel to these alternative centers, simply does not exist.

This situation could very well be true for some patients currently served at the other six defunded centers at Duke University, Penn State's Hershey Medical Center, St. Luke's Roosevelt Hospital in New York City, SUNY-Stony Brook on Long Island, the University of Cincinnati, and the University of Massachusetts Medical School in Worcester.

All seven of these centers have developed a large, highly specialized staff of physicians, researchers, clinical nurses, and other health professionals with specific expertise and skills in the treatment of AIDS patients. These researchers, doctors, and nurses will now have to choose between relocating to another center to continue their work on AIDS, or seeking alternative—but less comprehensive—support for their work. Some may even refocus their efforts on other areas altogether. Given the scope and magnitude of this important research in the future health care of this country, we can scarcely afford to lose the valuable data and research efforts generated in these centers.

Moreover, the Federal Government has invested millions-of-dollars in building the skills and knowledge base of researchers at Tulane and the other six ACTUs. If these researchers and health professionals are forced to leave the AIDS research effort, a very significant investment will be lost. Consequently, rather than discontinuing these important research and care facilities, more effort should be expended to provide an increase in funding and support.

Also to be noted is that even though demographic considerations were a part of the competitive selection process, the seven defunded centers have enrolled more females, minorities, and IV users than is the average enroll-

ment of these vulnerable groups at all centers. Given that the enrollment of women and people of color into adult clinical trials requires continued vigilance, the high enrollment of these groups in the seven defunded centers cannot be ignored. I point out to you for emphasis that the New Orleans Center has enrolled African Americans into clinical trials at twice the average rate—22 versus 12 percent. We cannot ignore these statistics.

Mr. President, it is also important to stress the geographic imbalance that exists in the present existing and newly funded ACTUs. The northeast and west coasts are more than adequately represented with a high concentration of ACTUs located in those areas. However, the South and the Gulf coast are woefully underrepresented with only Galveston and Birmingham having funded ACTUs.

Mr. President, I am concerned that the seven defunded centers are so important to the overall commitment to AIDS clinical research and care that if any are discontinued, years of care and research will be compromised. I would also point out that although the adult clinical trials program is only 5 percent of the overall NIAID budget, many of the most important breakthroughs in AIDS research have come through this program.

As I understand the conference agreement for the fiscal year 1993 NIH budget, the conferees agreed to move three-quarters of the way to the higher number, funding NIAID at \$989,800,000 as a result. This is about \$21,000,000 less than the budget request for NIAID, but I would point out that it is about \$28,800,000 more than NIAID received last year according to the tables printed in the Senate committee report (S. Rept. 102-397).

It is my strong hope, Mr. Chairman, that within this overall increase of over \$28 million, NIAID will find a way to continue funding for these existing adult units so that the patients and families who rely on them can continue to have hope. If these units were funded at current levels, it would take an additional \$12.1 million beyond the amount assumed in the budget request.

While I understand that the conferees did not earmark any funds within these accounts, I would point out that both the House and Senate reports provided increases for the adult clinical trial units beyond the budget request indicating concern by both committees about the fate of these units and the patients they serve. In my view, this is critically important, even if it means that each of these centers would receive reduced operating costs.

Is it the chairman's understanding that nothing in the conference agreement would deter NIAID from reallocating funds within the amount provided so that these seven centers can stay in operation?

Mr. HARKIN. That is certainly possible within the funds provided in the conference agreement, and indeed would not be inconsistent with both the House report and the colloquy the Senator and I engaged in on this subject on September 17, 1992, during Senate debate on this bill.

The Senator has continued to make a very compelling case for the need to keep these units open, both on scientific and humanitarian grounds. I fully understand the Senator from Louisiana's concern, and recognize his particular concern about the fate of the New Orleans Center, which he has brought to my attention on several occasions.

Therefore, we have encouraged NIAID to find a way to reallocate priorities so that additional funds can be made available for adult trial units and that these seven centers can remain in operation. I would also encourage the administration to take a close look at this issue and the budget estimates they are preparing for fiscal year 1994, so that sufficient funds can be made available to rectify this situation in future years.

Mr. JOHNSTON. I thank the Senator and will look forward to working with him and his staff in trying to find a way to assure that these seven centers, and in particular the center in New Orleans, stay open.

#### SOCIAL SERVICES RESEARCH

Mr. BUMPERS. I would like to engage the chairman of the subcommittee on matters related to social services research account. It is my understanding that the Senate report includes \$5 million in the account for the section 505 of the Family Support Act of 1988, the job creation demonstration. The House did not include funding for this program in its recommendation. During the conference, the House receded to the Senate and, therefore, the Senate language on section 505 stands. Is that the case?

Mr. HARKIN. The Senator is correct. The conference agreement assumes the availability of \$5 million within social services research for the job creation demonstration.

#### DISPLACED HOMEMAKERS NETWORK

Mr. SIMON. Mr. President, I understand that the Appropriations Committee added \$485,000 to the Women's Bureau to maintain funding for the displaced homemakers network. I am pleased that Congress has continued to demonstrate our support for the important work of this organization.

Mr. HARKIN. The Senator is correct. There is a long history of committee support for the technical assistance and training services the network provides to the more than 1,300 local programs across the country. These services have a proven track record of resulting in improved programs for displaced homemakers at the local level. In this conference agreement, we have



added \$485,000 to the Women's Bureau specifically for the continuation of the technical assistance and training services provided by the national displaced homemakers network. Displaced homemakers and local programs in Iowa and around the country have benefited from these services.

Mr. SPECTER. I also want to reiterate the committee's support for maintaining funding for the displaced homemakers network in fiscal year 1993. The displaced homemakers network has a long track record of being an effective provider of technical assistance and training to local programs. I have heard from many of my constituents in Pennsylvania about the high quality and importance of the services that the network provides. We intend for the department to continue to provide technical assistance and training for our displaced homemaker programs through the network with the funds that were added to the Women's Bureau.

#### AMENDMENT 63

Mr. REID. Mr. President, I would like to commend the chairman for his leadership on the passage of this bill and outstanding statesmanship on many of the difficult issues that faced the conferees.

So that we might clarify some of the specifics related to decisions made during the course of this bill's consideration, I would like to engage the chairman in a colloquy in order to provide some legislative history that should be utilized by NIH in the implementation and administration of the program provided through amendment 63.

Mr. HARKIN. I would be delighted to discuss this matter.

Mr. REID. I thank the Senator. Is it the chairman's understanding that with regard to the parameters of consideration for the competitive process to be employed with the funds provided through amendment 63, that the Senate intent for the portion dedicated toward a diabetic eye care facility in Boston was based upon outside witness testimony?

Mr. HARKIN. The Senator is correct?

Mr. REID. And is it the chairman's further understanding that the intent was based upon testimony and accompanying attachments presented on July 29, 1992, by Ron Kahn, in which the criteria for funding of a diabetic research facility is listed?

Mr. HARKIN. The Senator is correct.

Mr. REID. Finally, Mr. President, was the decision of the conference to support the Senate provision also based on these criteria?

Mr. HARKIN. The Senator is correct on the assumptions and intent on underlying the congressional action on this amendment.

Mr. REID. I thank the chairman for his clarification.

#### DISTRICT OF COLUMBIA INSTITUTE FOR MENTAL HEALTH

Mr. ADAMS. Mr. President, I want to bring to the attention of my colleagues the work of the District of Columbia Institute for Mental Health.

Mr. President, the D.C. Institute for Mental Health is the largest nonprofit provider of outpatient mental health services in the national capital area, serving some 3,000 poor and underinsured children and adults annually at its four programs located in Anacostia, northern Georgia Avenue corridor, and Connecticut Avenue. Working with people who are seriously at risk for mental illness due to social, economic, and biologic factors, the institute is the last resort for many thousands of people who would otherwise cycle in and out of inpatient and emergency services—people often facing the combined stressors of poverty and family disintegration, for whom success in school or work would become an impossible goal without the range of treatment and support services offered through the institute.

Without public funding of any kind during its first 24 years of operation, the institute was on the verge of fiscal and regulatory collapse in 1989. With the help of \$1 million in a Federal appropriation each year for the past 2 years through the D.C. appropriations bill, the institute has undertaken a massive rebuilding of its fiscal and program infrastructure, building toward a more competent and independent funding base which will enable it in the years ahead to see more of the city's neediest children, at risk families and adults—not only returning people to productive lives, but preventing unnecessary disability as well as saving the city and Federal Government millions of dollars in Medicaid expenditures.

As a nonprofit organization, it has provided mental health and now substance abuse treatment to some of the most seriously mentally ill adults, at-risk children and families that would otherwise go unseen by the city government and the various for-profit mental health systems due to their economic limits. The institute's population has an average annual income of \$9,450 and a median of \$5,000.

Mr. President, when I speak of the institute providing service to the most seriously at-risk populations, I speak of children who have seen their parents and other family members killed as a result of violence; people who have been neglected and abused; alcohol, and drug abusers whose condition is more complicated due to emotional disturbance; victims of AIDS; grandparents experiencing depression and anxiety as they parent their grandchildren, their own children either addicted to drugs or killed in drug-related violence. The institute's services reach the economically hard-stricken area of this city and its surrounding jurisdictions.

The Subcommittee on the District of Columbia was unable to continue its support of the institute in fiscal year 1993, despite the inclusion of funds in both the House and Senate bills, because of a reduced allocation in order to bring our bill into line with the President's budget request. We were faced with having to eliminate all special project funding and reduce the city's budget by more than \$25 million.

I know that everyone has been faced with unappealing choices in the level of funding we have been able to provide, but because of the important contribution of the Institute to the mental health system of the Nation's Capital, we need to make every effort to make sure that the city does not lose this vital resource.

Mr. President, I would like to ask the Senator from Iowa [Mr. HARKIN] if he would agree that the institute would be an excellent resource and recipient of funds under programs of the newly reorganized Substance Abuse and Mental Health Services Administration, including the substance abuse demonstration project under the auspices of the Washington Area Council of Governments.

Mr. HARKIN. Mr. President, I certainly agree with the Senator about the valuable role the District of Columbia Institute for Mental Health plays in providing health services to so many families in Washington. I recall the institute from my days as chairman of the Appropriations Subcommittee on the District of Columbia.

The fiscal year 1993 Labor-HHS bill, as the Senator mentions, contains funding for a number of programs that serve the citizens of D.C., including the mental health and substance abuse block grants administered by the Substance Abuse and Mental Health Services Administration. The Labor-HHS bill also provides first-year funding of \$3 million to initiate a model comprehensive program for treatment of substance abuse in the National Capital Area, mandated under the ADAMHA Reorganization Act, Public Law 102-321. This program will bring together the resources of the Council of Governments of Washington and the surrounding areas in order to address the problem of substance abuse.

As the Senator noted, the problems of substance abuse and mental health disorders are interrelated and often intertwined. It is sensible policy and effective management of resources to provide comprehensive treatment for these problems together, rather than trying to separate substance abuse treatment from mental health services.

Mr. ADAMS. It is my understanding that the authorization for this program allows the HHS Secretary to make a grant to an organization of governments or another public or nonprofit private entity. Is that the Senator's understanding?

Mr. HARKIN. That is correct. Section 571 of Public Law 102-321 also states that services may be provided through cooperative agreements with public and nonprofit entities.

Mr. ADAMS. I thank the Senator. I believe the District of Columbia Institute for Mental Health could be an important member of the coalition that will carry out this comprehensive treatment program, and encourage the Council of Governments to work with the institute to ensure that their high quality services can be offered under the comprehensive treatment program.

#### DROPPING OF PRO-KIDS

Mr. LAUTENBERG. Mr. President, I rise in support of the conference report and to praise the chairman of the subcommittee, Senator HARKIN for his extraordinary efforts to support some of the most critical Federal programs for our Nation's children, the elderly, and those who are suffering from illness and disease.

At the same time, I must note, with very great disappointment, that the conference report does not include a very important provision, included in the Senate bill through an amendment that I offered, to protect the health of our Nation's children.

This provision was based on legislation called PRO-KIDS, which stands for "Preventing Our Kids from Inhaling Deadly Smoke" (S. 3169), which I introduced in August of this year.

PRO-KIDS will protect children from secondhand smoke while they are participating in federally funded children's programs such as Head Start, WIC, health care, and day care programs. The provision included in the Senate legislation would have required participants in federally funded programs to establish a nonsmoking policy if they provide health services to children under the age of 5 or provide other social services primarily to children under the age of 5.

Mr. President, this provision is designed to prevent our children from being exposed to a carcinogen, environmental tobacco smoke, or secondhand smoke. In a recent draft report, the Environmental Protection Agency concluded that secondhand smoke was indeed a group A carcinogen, a group that includes toxins such as asbestos, benzene, and arsenic.

The evidence is clear that secondhand smoke is taking an enormous toll on the health of Americans, particularly our children. According to the EPA, an estimated 2,500 to 3,300 lung cancer deaths per year among nonsmokers result from exposure to secondhand smoke. Secondhand smoke causes more than 200,000 lower respiratory tract infections in young children annually, including bronchitis and pneumonia, resulting in 7,500 to 15,000 hospitalizations.

Furthermore, secondhand smoke exacerbates asthmatic symptoms in chil-

dren and is associated with 8,000 to 26,000 new asthma cases in children. In a separate study, the American Heart Association concluded that exposure to secondhand smoke increases the risk of lung cancer, heart disease, and emphysema and that approximately 50 percent of all children are exposed to secondhand smoke.

Mr. President, the EPA report to which I referred, has passed several scientific reviews and is due to finally be released by the EPA at the end of this year. But this is not the first word that we have heard on the dangers of secondhand smoke. The American Heart Association also released a report this past summer which reached the same conclusion. The report states that since 1964, thousands of studies have been concluded which show that secondhand smoke increases the risk of lung cancer, heart disease, and emphysema.

Mr. President, we know that secondhand smoke kills and we need to rid the air we breathe from this carcinogen. As a first step, we should protect our children.

This proposal is not overreaching or burdensome. This legislation would simply require nonsmoking policies that would limit indoor smoking in facilities associated with federally funded programs to those areas which are not normally used to serve children and which are ventilated separately from these areas. Evidence accumulated by the EPA and other entities shows that separate ventilation is necessary to prevent secondhand smoke from recirculating through the ventilation system right into the room used by the children.

In cases where unusual extenuating circumstances prevent total compliance, programs could apply for a partial waiver from this provision if they protect children from exposure to secondhand smoke to the extent possible.

Mr. President, the Federal Government has a series of requirements that grantees must comply with in order to receive Federal funds. In order to receive Federal funding, grantees must certify to the Federal Government that they are complying with a myriad of Federal health, safety, and nondiscrimination laws like the Drug-Free Workplace Act, the Americans with Disabilities Act, the Safe Drinking Water Act, the Fair Labor Standards Act, and title VII of the Civil Rights Act of 1964.

I would also note that this proposal would not create a smoking police force or stop funding to an entity if a person defiantly smokes in front of children. It simply requires that the recipients adopt such a nonsmoking policy and make a good faith effort to enforce it.

It would not create any new burden on Federal grantees. All the amendment requires is that a grantee draft,

submit, post, and enforce a no-smoking policy or separately ventilate smoking areas. I have been told that local affiliates of the American Cancer Society and other organizations will donate no-smoking signs to entities that adopt no-smoking policies.

Children are the most vulnerable members of our society. They depend upon us to protect them and safeguard their health. Isn't it time to give our children, especially those who depend on the Federal Government for valuable services like health care and preschool training, the same protection we already accord to some Federal workers and airplane travelers?

So what happened, Mr. President? Why is this reasonable, narrowly constructed proposal, endorsed by the American Heart Association, the American Lung Association, the American Cancer Society, the Association for Respiratory Care, the Association of Maternal and Child Health Programs, the Asthma and Allergy Foundation of America, and the National Coalition for Cancer Research not in this legislation?

That reason is the powerful tobacco lobby. They have worked in the conference to stop this small but important step to protect our Nation's children from deadly secondhand smoke. Their action means that children will be denied protection they need so that the tobacco lobby can, once again, maintain the fiction that they are not peddling a product deadly, not just to the smokers themselves, but their children as well.

If I sound disappointed, Mr. President, it's because I am. Needless sickness and health could be prevented by the swift passage of this proposal. Now our Nation's children will have to wait.

Let me once again thank the distinguished subcommittee chairman, Senator HARKIN, who I know shares my deep conviction over this issue. We will continue to work together on efforts to discourage smoking, like the amendment the Senator from Iowa offered to the tax bill, which would have reduced the tax deduction for cigarette advertising.

I pledge to continue this fight in the next Congress. It is too important to the Nation's children to abandon.

Mr. CHAFEE. Mr. President, I would like to commend the members of the conference committee for their diligent efforts to retain almost the entire Senate request for the Low-Income Home Energy Assistance Program [LIHEAP]. The agreement includes \$1.346 billion for LIHEAP—\$455 million more than the amount recommended by the House of Representatives.

As you all know, LIHEAP provides home energy aid to low-income families struggling to pay for necessary home energy costs, such as heating. These costs are fixed. Heating is a necessary fact of life in many areas of this



country. In my State of Rhode Island, where winters can be fierce, heating is not luxury.

For a low-income household, fixed heating costs represent a significant—often disproportionate—share of the family's budget. Energy bills can eat up as much as 25 percent of a family's annual income, causing the need for heat to compete with other necessities such as food and shelter. Elderly and other persons living on fixed income often face the same dilemma. According to the Department of Health and Human Services, LIHEAP dollars cover only a portion of the average recipient's energy bill—approximately 20 percent. But that 20 percent provides a real boost and can make all the difference in the world to a family or elderly person struggling to make ends meet.

Even though the last couple of winters have been relatively mild, requests for LIHEAP assistance in Rhode Island and elsewhere have increased significantly. In its most recent report to Congress, the Department of Health and Human Services estimated LIHEAP served 5.8 million households in 1990—roughly one-fifth of the 25 million eligible households.

In Rhode Island, unemployment continues to hover just under 10 percent and housing costs can consume up to half a family's monthly income. Last year's credit union crisis dealt another blow to families and elderly persons who were shut off from funds in savings and checking accounts. That is why LIHEAP is so important to my State, and why every penny of assistance counts—not only to Rhode Islanders, but also to the millions of households across the nation that benefit from LIHEAP.

On another matter, I am pleased to note that the conference report provides \$89 million for a program I authored called Even Start, a joint parent/child literacy program that operates in all 50 States. This appropriation is \$19 million above this year's level, and almost the entire \$90 million requested by President Bush.

Mr. President, our Nation has set six education goals to be achieved by the year 2000. Even Start goes hand in hand with these goals, especially goals 1 and 5—that all children will enter school ready to learn and that every American adult will be literate. The program helps parents develop the skills they need to become partners in their child's education and helps youngsters to reach their full potential as learners by integrating early childhood and adult education into a unified family-centered program. I commend the conferees for their efforts to increase funding for this program.

Mr. LAUTENBERG. Mr. President, I rise in support of the conference report accompanying the Labor, Health and Human Services, and Education appro-

priations bill for fiscal year 1993. I commend Senator HARKIN, the subcommittee chairman, for putting together this final bill. Many worthy programs compete for limited funds in this appropriations bill and the Senator from Iowa had to make some very difficult choices in crafting this bill. These choices are particularly difficult because of the outmoded budget agreement that has limited our ability to transfer funds from Defense spending to critical domestic needs in New Jersey and throughout the Nation. I regret that several amendments to transfer unnecessary funds from Defense to programs contained in this bill failed.

I am pleased that the conference report includes funding for a number of important programs which I requested that are designed to address critical domestic needs. One of the biggest health challenges of the last decade has been the AIDS epidemic. The AIDS epidemic now affects young and old, men and women, black and white, urban and rural. This epidemic, which is now growing at approximately 35 percent per year, has been crippling our public health system for the past few years.

In response to this epidemic and the tragic death of Ryan White, the Congress passed the Ryan White CARE Act in 1990. I was a cosponsor of this legislation that was designed to provide emergency funding for AIDS care, prevention and education. The bulk of the funding was designed to go to 16 original target areas, including Hudson County, NJ, and the Newark, NJ, metro area, and the 50 States.

The Labor-HHS appropriations bill includes \$185 million for title I [target areas] of the Ryan White CARE Act, which is an increase of \$63 million over last year's level. This increase is even more necessary because there are now 24 areas eligible for title I assistance. This bill also includes \$115 million for title II of the same act which is reserved for State programs. I commend the subcommittee for including this increase even though the Labor and Health and Human Services allocation was below last year's level plus inflation and hope that we can work together in the future to provide the highest possible funding for this program.

The \$185 million for title I programs will provide about a 26-percent increase in funding for AIDS care and education programs in Newark, NJ, and Hudson County, NJ, as well as other hard hit areas across the United States.

This bill also provides funding for the National Pediatric-Family Resource Center in Newark, NJ. This center provides valuable medical treatment, foster and child care, drug treatment, clinical drug trials, transportation, nutrition and case management to families of victims of AIDS. The funding in this bill will ensure that this center continues to provide these valuable services in northern New Jersey.

Lead poisoning is also a major problem in my State and throughout the Nation. The U.S. Public Health Service estimates that 3 to 4 million children have blood levels high enough to cause health problems and impair cognitive development. The Centers for Disease Control [CDC] has initiated a lead poisoning prevention program that provides grants to States and localities to establish community-based lead prevention programs. Last year, the Congress appropriated \$21.3 million for this program. The House of Representatives only provided \$20.8 million in their fiscal year 1993 bill. I strongly urged the Labor-HHS Subcommittee to drastically increase funding for this program. The conference committee has accommodated this request by providing \$30 million. This will ensure that we will have greater resources to fight this major health problem.

This conference report also restores a House cut in the domestic refugee and entrant assistance program by providing \$381 million. While this is less than last year's funding, it is more than the President's proposal which would have cut this program by 50 percent. I commend the subcommittee for recognizing how critical the domestic refugee and entrant assistance program is to successful resettlement of refugees fleeing desperate situations in their home countries.

Mr. President, I have been extremely concerned about the increasing cost of higher education in our country today. In the past 11 years, the price of both public and private tuition has increased faster than the Consumer Price Index [CPI], in some years two to three times faster. This has had an adverse impact on the ability of American families to send their children to college. In an attempt to begin the process of reversing this trend, I was successful in creating a National Commission on the Cost of Higher Education in the Higher Education Act. I am pleased that the Labor-HHS appropriations conference report contains \$1 million so that the Commission can begin its work of looking for solutions to hold down the increasing cost of college tuition. It is my expectation that the Commission will soon offer the Congress a series of proposals to achieve this goal and the Congress will closely consider these recommendations. I am also pleased that the majority leader has appointed me to serve on this Commission.

Mr. President, I have also been concerned about meeting the need for innovative elementary and secondary education programs to improve our Nation's schools. This final bill includes \$3 million for a model community education employment center [CEEC] authorized by the Carl D. Perkins Vocational and Applied Technology Act of 1990. I secured the authorization for the overall program because there is a great need for innovative school-based

programs to help low income, disadvantaged children to graduate from high school and secure meaningful employment. I am pleased that the conference report which accompanies the bill encourages the Department of Education to test the success of this model in an urban school district in New Jersey.

This conference report also includes \$4.2 million for computer-based instruction programs funded through the Secretary's fund for education innovation. I secured authorization for this program in 1988 and it has received appropriations since fiscal year 1989. The Computer Education Program provides funds for special projects that expand and strengthen computer education resources in elementary and secondary schools. It is designed to increase opportunities for our young people to receive hands on experience with computers and technology.

This legislation also includes \$3 million to support Recording for the Blind, which is a nonprofit organization dedicated to making educational materials accessible to blind and print disabled people, and is located in Princeton, NJ. Recording for the Blind raises almost 80 percent of its funds from private sources and has almost 5,000 volunteers working at all of its studios. Despite these outstanding efforts, Recording for the Blind needs a modest appropriation to meet the growing need for these materials. I am pleased that this conference report provides a \$1 million increase in this appropriation for fiscal year 1993.

I am also pleased that this conference report provides funding for the construction of four new Job Corps Centers. The Job Corps Program is one of the best investments that the Federal Government makes in our youth. The Job Corps returns \$1.46 for every dollar invested. It also places more than 80 percent of its graduates into jobs, continued education or the military. Despite this strong record of success, Job Corps serves less than 1 percent of those eligible in my State. I will be working closely in the next few months to develop a proposal to have one of these new centers located in New Jersey.

I will continue to work in the future to increase funding for vital programs contained in this legislation.

Mr. DODD. Mr. President, I rise today in strong support of the conference report on appropriations for the Departments of Labor, Health and Human Services, and Education. The distinguished chairman of the subcommittee, Senator HARKIN, and the distinguished ranking member, Senator SPECTER, have done an outstanding job in crafting legislation that preserves funding for a number of programs critical to children and families. The tight budget situation made their work particularly difficult this year. Many hard choices had to be made.

Each of us might quibble with a few numbers here or there. But, overall, this is a bill that demonstrates continuing commitment to programs families in my own State of Connecticut and the rest of the country count on.

The children these programs seek to help will be the backbone of our workforce in the 21st century. The foundation we lay now with these children will determine whether or not our Nation is strong and economically competitive 20 or 30 years from now. But when half of inner-city children are not adequately immunized, when 5½ million American children are hungry, when 1,500 American children drop out of school every single day—then, Mr. President, we cannot hope or expect to have the workforce we need and, sadly, these children's expectations must fall as well. So, this bill is not just more spending on soft-hearted social programs. It is a critically important investment in our future.

A program particularly important to Connecticut is the Low-Income Home Energy Assistance Program, or LIHEAP. A warm home in winter is not a frill; it is a basic necessity of human survival. A recent study in Boston of underweight children found that during cold spells, these children's parents were being forced to choose between paying the heating bills or buying food. This is an unacceptable choice by any standards of human decency.

Last year, approximately 75,000 Connecticut households got help from the State's \$30.9 million LIHEAP allocation to keep their homes warm in winter. The cuts proposed, first by the President and then by the other body, would have devastated these families. The Senate strove for more humane numbers and was able to hold those numbers in conference. LIHEAP will receive \$1.34 billion in fiscal year 1993, down somewhat from the \$1.5 billion it received last year. However, the conference agreement also provides \$1.4 billion in advance funding for fiscal year 1994. \$143 million of that advance funding could be used to cover shortfalls for 1993, if needed. Thus, the total funds available for 1993 will be only slightly less than in 1992—about \$30.77 million in Connecticut.

We cannot underestimate the importance of the advance funding, provided in accordance with requirements in the 1990 Human Services Reauthorization Act, which I sponsored. The move to advance funding will enable States to plan ahead, setting their benefit levels well before the heating season begins and thus helping families budget household resources to avoid crises.

Other programs vital to America's children fared well. The increase for Head Start, almost \$600 million, will mean that my State of Connecticut will receive over \$4 million in additional funds to help over 800 more chil-

dren participate. The Child Care and Development Block Grant will receive more than \$67 million in new funds. For Connecticut, that means a total of \$6 million for child care next year. Having worked so long and so hard to see a Federal Child Care Program become a reality, Mr. President, it is most gratifying to see it grow and flourish.

The conference agreement also accepts the more generous Senate numbers on several programs that provide health care children and families in my State desperately need. These include the Community Health Centers, the Maternal and Child Health Block Grant, the Preventive Health Services Block Grant, and Lead Poisoning Screening. Childhood Immunization Programs and the Ryan White Comprehensive Care Program also received increases. Connecticut will see at least half-a-million-dollars in new money to help improve the health of the children in our State.

Mr. President, this year, more than any other, we have had to face the harsh realities of resources that fall far, far short of the tremendous need many of our children experience. There are many programs we would have liked to have received more funds. Many very worthy programs had to take small cuts to meet the overall target for the bill. But the distinguished Senators from Iowa and Pennsylvania, as well as the other members of the conference committee, have made the hard choices about how to allocate resources. They are to be commended, and I urge my colleagues to support this legislation.

Mr. SASSER. Mr. President, the Senate Budget Committee has examined the Conference Report on H.R. 5677, the Labor, Health and Human Services, Education, and Related Agencies appropriations bill and has found that the bill is under its 602(b) budget authority allocation by \$16 million and under its 602(b) outlay allocation by \$44 million.

I compliment the distinguished manager of the bill, Senator HARKIN, and the distinguished ranking member of the Labor, Health and Human Services, and Education Subcommittee, Senator SPECTER, on all of their hard work given the very tight budget constraints on their subcommittee.

Mr. President, I have a table prepared by the Budget Committee which shows the official scoring of the Labor, Health and Human Services, Education, and related agencies appropriations bill and I ask unanimous consent that it be inserted in the RECORD at the appropriate point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:



Labor-HHS Subcommittee Spending Totals—Conference  
(Dollars in millions)

Bill summary	Budget authority	Outlays
Domestic discretionary .....	61,638	61,966
Senate 602(b) allocation .....	61,650	62,007
Difference .....	-12	-41
Defense discretionary .....	496	407
Senate 602(b) allocation .....	500	410
Difference .....	-4	-3
International .....	11	11
Senate 602(b) allocation .....	11	11
Difference .....	-4	-3
Mandatory total .....	170,664	169,915
Senate 602(b) allocation .....	170,664	169,915
Difference .....	0	0
Bill total .....	232,809	232,299
Senate 602(b) allocation .....	232,825	232,343
Difference .....	-16	-44
Domestic discretionary above (+) or below (-):		
President's request (CBO) .....	-499	167
House-passed bill .....	488	-158
Senate-reported bill .....	479	340
Senate-passed bill .....	-26	211
Defense discretionary above (+) or below (-):		
President's request (CBO) .....	496	407
House-passed bill .....	-4	-3
Senate-reported bill .....	-4	-3
Senate-passed bill .....	-4	-3
International above (+) or below (-):		
President's request (CBO) .....	0	0
House-passed bill .....	0	0
Senate-reported bill .....	0	0
Senate-passed bill .....	0	0

Mr. DOMENICI. Mr. President, I rise in support of the conference agreement to H.R. 5677, the Labor, Health and Human Services and Education appropriations bill for fiscal year 1993.

The bill provides \$213.8 billion in budget authority and \$171.4 billion in new outlays for programs of the Departments of Labor, Health and Human Services, Education, and related agencies.

When outlays from prior-year budget authority and other completed actions are taken into account, the bill, as adjusted, totals \$232.8 billion in BA and \$232.3 billion in outlays for fiscal year 1993.

Mr. President, I am very pleased to note that utilization of budget gimmicks such as delayed obligations and emergency contingency appropriations have been kept to a bare minimum in this conference agreement.

The conference agreement stays below its 602(b) allocation by \$15.8 million in budget authority and \$44.2 million in outlays, and by preliminary OMB estimates, will be at or below the levels of the President's request.

Mr. President, this has been a very tight year in terms of domestic discretionary appropriations. Nonetheless, I am pleased that some programs I am concerned about have gotten fairly good increases in funding for 1993 in the Labor-Health and Human Services conference report.

#### NATIONAL INSTITUTE OF MENTAL HEALTH

This conference report includes \$585 million in funding for the NIMH, a 4.4-percent increase over 1992 funding.

During Senate consideration of this bill, I offered an amendment that the Senate adopted to increase funding for this Institute to the President's request of \$596 million.

While I would have liked to see us fund NIMH at that level, I am grateful that the conferees provided NIMH with at least an inflation increase.

With this increase, NIMH can continue to carry out its very exciting research agenda that promises to help millions of American families suffering from severe mental illnesses.

This agenda includes implementation of the decade of the brain, the schizophrenia national research plan, the national plan for research on child and adolescent mental disorders, and the national plan of research to improve care for severe mental disorders.

#### HEALTH CARE FOR THE HOMELESS

The conference report also includes \$58 million for health care for the homeless, a 4-percent increase over 1992 funding.

In the Senate, I offered an amendment that would have funded this program at \$62 million in 1993.

Nonetheless, I am very encouraged that the conferees nearly split the difference between the House and Senate funding levels.

This program provides critical primary health care to homeless Americans, many of whom are mentally ill.

I hope that, as a first priority, the increase in funding can be used to make sure existing grantees can meet their objectives before too many new grantees are started up.

#### COMMUNITY HEALTH CENTERS

I was proud to be a cosponsor in the Senate of an amendment that added \$40 million to the original Senate mark for community health centers.

These centers are simply the most cost-effective way we have available to spread access to essential primary health care services to needy Americans.

The conference report took half of that increase—\$20 million—bringing 1993 funding to \$559 million, or a 4.9-percent funding increase over 1992.

I believe dramatically expanding these health centers must be an integral part of health reform because so many Americans live in rural areas and poor communities that are underserved by doctors.

I introduced a bill last year that would double funding for these centers over the next 5 years, providing a 20-percent increase each year.

In 5 years, these centers could be providing primary care to 12 or 14 million Americans instead of the 6 million served today.

Although I am pleased that the conference report provided some increase, at the rate we are going, we will not provide the resources these centers need to serve the many millions of Americans who don't have good access to primary care.

We need to make these health centers a top priority for funding, particularly given the large and growing numbers of Americans without health insurance.

Mr. President, I appreciate the support of the conferees on the vitally important programs, and I urge adoption of this conference agreement.

Mr. HARKIN. Mr. President, we are prepared to yield back our time.

Mr. GORTON. Will the Senator yield? Mr. HARKIN. Yes.

Mr. GORTON. Does the Senator know if the Senator from Florida desires to use his time?

Mr. HARKIN. I am about to propound a unanimous-consent request on that specific topic.

Mr. President, I ask unanimous consent, on the yielding back of all time on the managers' part, that the time reserved for the Senator from Florida be available after the conference report is adopted and the amendments in disagreement are disposed of.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa [Mr. HARKIN] is recognized.

Mr. HARKIN. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time run equally on both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. Mr. President, I yield back the remainder of our time.

Mr. HARKIN. I yield back the remainder of our time.

The PRESIDING OFFICER. The question then occurs on agreeing to the conference report.

The conference report was agreed to.

Mr. HARKIN. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. GORTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HARKIN. Mr. President, I ask unanimous consent that the amendments of the House to the amendments of the Senate in disagreement be considered and agreed to en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the amendments of the House to the amendments of the Senate in disagreement, considered and agreed to en bloc, are as follows:

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 4 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: \$4,066,584,000

*Resolved*, That the House recede from its disagreement to the amendment of the Senate numbered 12 to the aforesaid bill, and

concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: \$750,000 is appropriated for the Glass Ceiling Commission authorized by title II of the Civil Rights Act of 1991; and, in addition, \$750,000 is appropriated for the National Center for the Workplace authorized by title XV, part A, of Public Law 102-325; and, in addition, \$12,638,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 18 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: \$3,162,127,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 24 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: \$64,356,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 45 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: \$1,684,610,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 52 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

#### NATIONAL INSTITUTE ON DRUG ABUSE

For carrying out section 301 and title IV of the Public Health Service Act with respect to drug abuse, \$408,982,000: Provided, That of such amount, \$2,000,000 shall be made available to carry out section 706 of the ADAMHA Reorganization Act, P.L. 102-321, in lieu of amounts that would otherwise be provided for such purpose under section 706(e) of such Act.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 55 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: \$991,805,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 60 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: \$48,591,000

On page 25 of the House engrossed bill, H.R. 5677, strike all in line 19 and insert in lieu thereof the following: National Institute of Nursing Research

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 62 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: \$192,763,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 65 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: \$109,608,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 68 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: \$2,023,524,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 69 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: \$960,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 70 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert: : Provided, That no portion of amounts appropriated for the programs of the Department of Health and Human Services shall be available for obligation pursuant to section 571 of the Public Health Service Act, other than an amount of \$3,000,000 from amounts appropriated to carry out section 510 of that Act

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 73 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: \$110,578,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 75 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: \$65,495,650,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 77 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: \$2,179,900,000, together with all funds collected in accordance with section 353 of the Public Health Service Act, the latter funds to remain available until expended; the \$2,179,900,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 78 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: \$16,009,657,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 79 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: \$4,899,142,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 80 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: \$200,000,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 87 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: \$812,000,000 shall be available in fiscal year 1994 and the remainder

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 88 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: Section 204(b)(4) of the Im-

migration Reform and Control Act of 1986 is amended by adding the following at the end thereof: "Any funds not expended by States by December 30, 1994 shall be reallocated by the Secretary to States which had expended their entire allotments, based on each State's percentage share of total unreimbursed legalized alien costs in all States. Funds made available to a State pursuant to the preceding sentence of this paragraph shall not remain available after June 30, 1995."

Section 204(b)(5) of the Immigration Reform and Control Act of 1986 is amended by striking the period at the end thereof and adding the following: "Provided, That with respect to States in which total allowable unreimbursed State and local costs incurred prior to October 1, 1992 exceed \$100,000,000 within each such State's allocation, the State shall first reimburse all allowable costs incurred between October 1, 1990, and October 1, 1992, before reimbursing costs incurred on or after October 1, 1992, except for State and local administrative costs and for costs of services required to enable aliens granted temporary residence under section 235A(a) of the Immigration and Nationality Act to attack citizenship skills described in section 245A(b)(1)(D)(i) of the Immigration and Nationality Act: Provided further, in reimbursing costs incurred prior to October 1, 1992, each State shall reimburse each provider at the same pro rata rate."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 95 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: On page 76 of the House engrossed bill, H.R. 5677, insert after line 19 the following: SEC. 513. Notwithstanding any other provision of this Act, no department, agency, or instrumentality of the United States Government receiving appropriated funds under this Act for fiscal year 1993 shall, during fiscal year 1993, obligate and expend funds for consulting services in excess of an amount equal to 92 percent of the amount estimated to be obligated and expended by such department, agency, or instrumentality for such services during fiscal year 1993; Provided, That notwithstanding any other provision of this Act, the aggregate amount of funds appropriated by this Act to any such department, agency, or instrumentality for fiscal year 1993 is reduced by an amount equal to 8 percent of the amount expected to be expended by such department, agency or instrumentality during fiscal year 1993 for consulting services. As used in this section, the term "consulting services" includes any services within the definition of "Advisory and Assistance Services" in the Office of Management and Budget Circular A-120, dated January 4, 1988.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 103 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: \$64,973,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 112 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: SEC. 216. Notwithstanding any other provision of this Act, funds appropriated under this Act for salaries and expenses of the Department of Health and Human Services are hereby reduced by \$110,000,000: Provided, That the fiscal year 1994 budget justification material shall specify amounts budgeted for



administrative costs within object classes 11 through 32 by appropriation account and by organizational entity, with comparisons to fiscal year 1993 comparable amounts.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 125 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: \$756,204,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 135 to the aforesaid bill, and concur therein with an amendment as follows:

Restore the matter stricken, amended to read as follows: *Provided further, That funds provided in this Act shall be available for assistance in defraying the costs of the education of military dependents as a result of temporary dislocations caused by transfers, return of military families from overseas, and closures of foreign and domestic bases, and \$500,000,000 shall be made available to the Department of Defense, provided that this entire amount may be transferred to the Secretary of Education and merged with and made available under the Impact Aid program except that nothing in this proviso shall modify any provision of Public Law 81-815 or Public Law 81-874 including those provisions related to eligibility or payment levels for any student or school district*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 137 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: \$1,543,750,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 138 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: \$1,229,843,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 154 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: \$1,486,431,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 163 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: and part H of said title, \$7,516,123,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 170 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: *of which \$1,000,000, which shall remain available until expended, shall be for the Commission on the Cost of Higher Education as authorized by part C of title XIV of the Higher Education Act and \$1,000,000, which shall remain available until expended, shall be for the National Commission on Independent Higher Education authorized by part B of title XIV of said Act*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 171 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken and inserted by said amendment, insert: *including subpart 2 of part A and part D, XI*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 184 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: \$195,570,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 191 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: \$278,184,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 213 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: *, of which \$2,500,000 shall be for demonstration of online and dial-in access to a statewide, multitype library bibliographic database through a statewide fiber optic network housing a point of presence in every county, connecting library services in every municipality, to be awarded competitively*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 214 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter stricken by said amendment, insert: *together with an additional \$2,000,000 which shall be available for the expenses of non-Federal experts to review applications and proposals for competitive awards made by the Department*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 217 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matters inserted by said amendment, insert: *SEC. 307. ANNUAL LOAN LIMITS—*

(a) *AMENDMENT.—Section 468 of the Higher Education Amendments of 1992 is amended—*

(1) *in paragraph (3), by striking "and" after the semicolon;*

(2) *in paragraph (4), by striking the period and inserting "and"; and*

(3) *by adding at the end the following new paragraph:*

*"(5) the changes in section 464(a)(2) (A), (B) and (C) shall not apply to any loan made for the award year beginning July 1, 1992 provided that the loan does not result in a violation of sections 464(a)(2) (A), (B) and (C) as in effect prior to such date of enactment."*

(b) *EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if enacted on July 23, 1992.*

Resolved, That the House recede from its disagreement to the amendment to the Senate numbered 236 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: *SEC. 511. Notwithstanding any other provision of this Act, funds appropriated or otherwise made available which are not mandated by law for programs, projects or activities funded by this Act shall be reduced by .8 per centum.*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 237 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: *SEC. 512. (a) Beginning in fiscal year 1994, and in each fiscal year thereafter, the Office of Management and Budget*

*shall establish the funding for consulting services for each department and agency as a separate object class in each budget annually submitted to the Congress under section 1105 of title 31, United States Code.*

(b) *For purposes of this section, consulting services include—*

(1) *management and professional support services;*

(2) *studies, analyses, and evaluations;*

(3) *engineering and technical services (excluding routine engineering services such as automated data processing and architect and engineering contracts); and*

(4) *research and development.*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 238 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the section number named in said amendment, insert: *514*

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 239 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: *SEC. 515. Funds appropriated in Public Law 102-170 for the National Commission on Children shall remain available until expended.*

Mr. HARKIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Iowa suggests the absence of a quorum. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### DEPARTMENT OF DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1993

Mr. NUNN. Mr. President, in a few moments I hope to lay before the Senate the conference report on H.R. 5006, the National Defense Authorization Act for Fiscal Year 1993.

This conference report authorizes programs for the Department of Defense, the national security programs of the Department of Energy, and civil defense for fiscal year 1993.

The conferees have worked very hard for the last month to resolve over 1,600 language and funding differences between the House and Senate versions of this bill. Since we did not complete action on this bill in the Senate until September 18, we had to finish a very difficult conference in a very compressed period of time.

I want to thank Chairman ASPIN, Congressman DICKINSON, and the other conferees from the House for their cooperation in this conference. I also want to thank my friend and colleague, Senator WARNER, the ranking minority member of the Armed Services Committee, and all of the members of the Armed Services Committee, for their cooperation and support throughout the conference.

This conference agreement provides the legislative framework to continue the process of reshaping the U.S. Defense Establishment for a post-cold-war world. It contains a range of initiatives to assist individuals, communities, and businesses in adjusting to the effects of the defense drawdown. It requires and promotes an across-the-board review of military roles and missions. It calls for increased civilian-military cooperation to meet some of the critical needs in cities and communities across the Nation.

#### BUDGET IMPACT OF THE CONFERENCE AGREEMENT

This conference agreement authorizes a total of \$274.3 billion in budget authority for the national defense function for fiscal year 1993. This is \$7.2 billion below the President's amended budget request, and \$3.1 billion below the level contained in the budget resolution for fiscal year 1993. This is also \$200 million lower than the level contained in the Senate bill which we passed 2 weeks ago.

In outlays, the bill is \$3 billion below the budget request and \$1 billion below the budget resolution level.

The result is that, once again, the defense funding level for fiscal year 1993 is below the level agreed to in the Budget Summit agreement of 2 years ago, below the President's budget request in January, and below the level of the budget resolution adopted by Congress in the spring.

#### MAJOR CONFERENCE ISSUES

Mr. President, this is one of the most complex and far-reaching defense authorization conference reports in recent years. I won't take the time to list all of the provisions in the agreement; the conference report was printed in the CONGRESSIONAL RECORD for Thursday, October 1, I will take just a few minutes today to summarize some of the major provisions in this legislation.

#### ASSISTING PERSONNEL, COMMUNITIES AND THE INDUSTRIAL BASE IN ADJUSTING TO THE DEFENSE DRAWDOWN

In my view some of the most important provisions in this conference agreement are in the area of defense conversion and transition.

Earlier this year, a Democratic Task Force on Defense Transition headed by Senator PRYOR and a Republican Task Force on Adjusting the Defense Base headed by Senator RUDMAN made a series of recommendations to address the problems associated with the downsizing of our defense establishment. The Defense authorization bill passed by the Senate 2 weeks ago included a broad range of conversion and transition programs, and the House bill also had very detailed legislative proposals in this area.

This conference agreement authorizes a total of \$1.5 billion for defense conversion assistance to individuals, communities, and the industrial base.

Included in this total is \$463 million for the up-front accrual costs, if implemented, of early retirement incentives for military members. Over the 5-year transition period, these incentives will produce a net savings of \$1.1 billion due to reductions in the number of senior military personnel on active duty.

In the area of personnel transition initiatives, the conference agreement:

Authorizes active duty personnel in nontransferable skills, such as combat arms, to apply for up to 1 year of educational leave of absence to obtain civilian skill training.

Authorizes active duty personnel in surplus categories who have 15 but less than 20 years of service to apply for early retirement, and to accrue additional military retirement credit if they take critical jobs in areas such as education, law enforcement, and health care.

Authorizes selected reservists in surplus categories who have 15 but less than 20 years of service to apply for reserve retirement, with benefits commencing at age 60.

Authorizes selected reservists who have at least 20 years of service to apply for an immediate, reduced retirement annuity.

Authorizes separation pay for selected reservists who are involuntarily separated.

Continues Reserve GI bill assistance for selected reservists who are involuntarily separated.

Authorizes Job Training Partnership Act assistance for DOD civilian employees 12 months in advance of a base closure or realignment.

Authorizes a resignation incentive of up to \$25,000, and an early retirement incentive of up to \$25,000, for DOD civilian employees in surplus skill categories and for employees at military installations facing closure or realignment.

Authorizes DOD to pay for up to 18 months the Government's contribution for a Federal health insurance plan for a DOD civilian employee who is involuntarily separated due to a reduction-in-force.

Authorizes \$50 million for DOD support for the Department of Labor's worker relocation and training programs under the Job Training Partnership Act.

To assist communities in dealing with the problems of defense transition and conversion, the conference agreement:

Adds \$50 million to the \$4.9 million requested for the DOD Office of Economic Adjustment for planning grants to communities adversely affected by the closure of military installations or the drawdown of defense business.

Authorizes \$80 million for economic development grants administered by the Department of Commerce's Economic Development Administration for the capital investment needs of com-

munities adversely affected by base or defense plant closures.

Authorizes \$50 million for DOD to make supplemental grants to local school districts with large numbers of DOD dependents to mitigate the effect of the dependents on the districts, and \$8 million for payments to local school districts that are losing large numbers of DOD dependents through base closures or realignments.

In the area of defense industry and technology, the conference agreement:

Authorizes \$100 million for dual-use critical technology partnerships to stimulate industry investment in vital defense technologies.

Authorizes \$50 million for commercial-military integration partnerships to foster the development of commercial technologies that can also meet future reconstitution requirements and other needs of DOD.

Authorizes \$100 million for regional technology alliances to promote the development of products that build upon regional strengths in particular industries and technologies.

Authorizes \$25 million for defense advanced manufacturing technology partnerships to encourage government-industry cooperative efforts in manufacturing technologies, especially those which would significantly reduce the health, safety, and environmental hazards of existing manufacturing processes.

Authorizes \$100 million for Defense manufacturing extension programs to support the manufacturing programs of regions, States, local governments, and private, nonprofit organizations.

Authorizes \$30 million for manufacturing engineering education programs.

Authorizes \$200 million for dual-use technology and industrial base extension programs. This will enable the Secretary of Defense, working with the Secretaries of Energy and Commerce, to support programs sponsored by the Federal Government, regions, States, local governments, nonprofit organizations, and private entities that assist defense-dependent companies in acquiring dual-use capabilities.

Requires cost-sharing from non-Federal sources for all the technology and industrial base programs.

Expands the Small Business Innovative Research Program, which uses a percentage of funds from each agency's research and development budget to fund research proposals from small business concerns. DOD and other agencies will increase their share from the current rate of 1.25 percent to 1.5 percent in fiscal year 1994, with annual increases of .25 percent each year until reaching 2.5 percent in fiscal year 1998.

Establishes a DOD office of technology transition which would be responsible for monitoring DOD research and development activities; identifying activities that have potential commer-



cial applications; serving as a clearinghouse to facilitate the transition of technologies to the private sector; and assisting firms with regulatory problems associated with technology transition.

#### COMPREHENSIVE REVIEW OF ROLES AND MISSIONS IN DOD

Mr. President, our committee had a major initiative in this bill to address the long-standing problem of the assignment of roles and mission to the military services.

I outlined in a speech earlier this year the redundancy and duplication in the current allocation of the roles and missions of the services, and I outlined some of the considerations and questions that needed to be answered which I believe have the potential of saving not millions or hundreds of millions but billions of dollars every year for the taxpayers.

This conference report emphasizes the need for a comprehensive, no-holds-barred review of roles and missions of the military services in the Department of Defense; outlines areas for review; and requires the JCS Chairman's roles and missions report mandated by the Goldwater-Nichols Department of Defense Reorganization Act, together with the Secretary of Defense's views, to be submitted to Congress.

In addition, the conference agreement:

Retains funding for continued operation of EF-111 standoff jammer aircraft only if the roles and missions study justifies continued operations and the Air Force fully budgets for the cost of the EF-111 fleet in the fiscal year 1994-99 future year defense program.

Prohibits obligation of more than 65 percent of funds authorized for major new tactical aircraft until 60 days after Congress receives the roles and mission review and a comprehensive affordability assessment of tactical aviation modernization.

Expresses the sense of Congress that the Army and Marine Corps should seek ways to complement each other's capabilities and should emphasize areas in which each service has a comparative advantage and directs the JCS Chairman to examine the integration and cooperation of Marine Corps and Army capabilities in his roles and missions review.

Removes legislative restrictions on the Defense Department's ability to compete maintenance workload between DOD depots and the private sector during fiscal year 1993.

Requires a competition between Navy EP-3 and Air Force RC-135 tactical intelligence aircraft by transferring the requested upgrade funds to a central account and requiring the Secretary of Defense to select only one aircraft to be upgraded.

Requires a plan to restructure the budget and missions of the Defense Nu-

clear Agency to reflect the deemphasis on nuclear weapons and the application of unique Agency expertise to other defense problems.

#### CIVILIAN MILITARY COOPERATIVE ACTION PROGRAM

A third major initiative in the Senate bill that was adopted by the conference is the establishment of a civilian-military cooperative action program. This program will build on a variety of past DOD efforts and encourage the military services to provide assistance, consistent with their military mission, to civilian projects that address critical domestic problems in areas such as health care, nutrition, education, and infrastructure. The military's efforts under this program will be structured to fill needs that are not otherwise being met, and to provide this assistance in a manner that does not compete with the private sector or with services provided by other Government agencies.

Mr. President, the relief activities of the military following Hurricane Andrew represent the type of domestic role that the committee had in mind in establishing the Civilian-Military Cooperative Action Program. The Defense Department's assistance in south Florida makes use of equipment and facilities that were acquired for military purposes; it employs the Armed Forces in activities that provide real training and improve the readiness and morale of the troops and units involved; and it provides assistance that is not otherwise available from the private sector or from other Federal agencies. The Civilian-Military Cooperative Action Program will encourage these kinds of activities by the military services to assist civilian agencies and local communities around the country on an ongoing basis.

#### INCREASING EFFICIENCY AND REDUCING COSTS OF DOD OPERATIONS

The Armed Services Committee made a concerted effort this year to increase the efficiency and reduce the costs of operations throughout the Defense Department. Many of the funding adjustments recommended by the committee and adopted by the conferees are based on recommendations made by the General Accounting Office; the DOD inspector general; and the military service audit agencies.

The conferees:

Adopted a major initiative to improve DOD inventory management that results in savings of \$3 billion in fiscal year 1993.

Authorized the sale of large amounts of material which the Defense Department has determined are no longer required in the National Defense Stockpile. Projected revenues from these sales are approximately \$500 million in fiscal year 1993 and \$600 million in fiscal 1994.

Reduced recruiting support costs by 5 percent or \$24 million; required a 10-

percent reduction in the number of military personnel serving in recruiting activities over the next 2 years; and directed the Navy and Air Force to consider consolidating their active and reserve recruiting functions into a single organization like the Army and Marine Corps.

Required DOD to submit a plan to reduce the cost of space systems, space launch capabilities and space-related control activities by 15 percent below the current baseline of planned expenditures.

Reduced funds for administrative travel (-\$200 million); consultants (-\$45 million); printing and reproduction costs (-\$16 million); and administrative airlift flying hours (-\$18 million).

Reduced funds for classroom training and education programs for military members (-\$100 million) to reflect lower force levels.

#### INCREASING UTILIZATION OF THE NATIONAL GUARD AND RESERVE FORCES

The conferees' recommendations on the National Guard and Reserves are intended to maintain robust forces that would emphasize small unit combat, combat support, and combat service support roles. The conferees also recognized that in peacetime, National Guard and Reserve Forces should assist civic improvement programs consistent with military training requirements.

The conference agreement moderates the requested reductions in National Guard and Reserve components to allow time for DOD to realign their roles and missions. It also authorizes the Chief of the National Guard Bureau to enter into an agreement with the Governors of one or more States to carry out a pilot program during fiscal years 1993 and 1994 for National Guardsmen to conduct training by providing health care to medically underserved populations in those States.

#### TACTICAL AIRCRAFT MODERNIZATION PROGRAMS

One of the most difficult issues facing the conferees was in the area of tactical aviation modernization. The military services currently have earmarked more funds for tactical aircraft modernization than for any other combat mission. Five major tactical aircraft currently on the drawing boards would require over \$6 billion in fiscal year 1993 and over \$400 billion in total investment costs over the next 20 years.

The conferees outlined a comprehensive framework for analyzing the future direction of tactical aviation modernization.

It is very apparent, Mr. President, to anybody who studies that there is no way in our current fiscal environment that all of these aircraft can be afforded. The question is which ones can be afforded and can we rationalize this so we can avoid duplication and save billions of dollars.

The framework in this conference report calls for a thorough review of Service roles and missions to determine overall requirements, and a detailed affordability analysis of various modernization alternatives. Funding for the F-22, AX and F-18E/F in fiscal year 1993 would be limited until that analysis is completed.

On specific programs in the fiscal year 1993 budget, the conference agreement:

Authorizes the budget request of \$2.2 billion for the F-22 Air Force fighter.

Authorizes the budget request of \$165 million to initiate a competitive prototype development of the AX long-range bomber.

Authorizes \$943.6 million (a reduction of \$190 million from the budget request) for development of the F-18E/F aircraft; restricts the funds until DOD caps the development and production costs and conducts a cost and operational effectiveness analysis; and prohibits entering production until flight tests prove the air worthiness of the aircraft.

Continues development of the RAH-66 Comanche Army helicopter, but with a requirement that the full development costs must be included in the future year defense plan before all the funds can be obligated, and accelerates modification of the existing AH-64 Apache helicopter fleet.

Scales back procurement of the existing F-18C/D aircraft—a reduction of \$580 million from the budget request—in light of prospective consolidation of Navy and Marine Corps F-18 squadrons.

Authorizes the budget request of \$683.2 million for 24 F-16 aircraft in fiscal year 1993, and directs that no funds could be used for advance procurement unless the tactical aviation modernization studies justify continued production of the F-16.

#### STRATEGIC PROGRAMS

Every defense authorization conference seems to have vigorous debates on the B-2 and SDI programs, and this conference was no exception.

The conferees authorized a total of \$2.7 billion to complete the B-2 program at 20 aircraft. Of this total, \$900 million can be obligated without any restrictions in order to assure that there will be no break in production. The remaining \$1.8 billion cannot be obligated until a number of performance and cost certifications and reports have been provided to the congressional defense committees, and a subsequent vote by both the Senate and the House of Representatives permits obligation of these funds.

The conference report authorizes a total of \$4.05 billion for SDI, including \$1.1 billion for theater missile defenses, which we have reorganized into a separate theater missile defense initiative [TMDI]; \$2 billion for development of an initial treaty-compliant ABM system; and \$300 million for work on the

Brilliant Pebbles space-based interceptor program. Total funding for SDI and TMDI is \$1.35 billion below the President's budget request.

One of our top priorities in acting on the SDI program this year was to reduce the level of technical risk and concurrency that SDIO had built into their planning. In the future, the program must be conducted according to sound acquisition procedures, including not committing to production or development until adequate testing has been completed. In this regard, the conferees deleted last year's 1996 target date for deployment of the first ABM site—a date which last year had been represented to us as realistic but which turned out to be clearly impractical. We now anticipate that the initial, treaty-compliant ABM deployment would likely occur in the 2002-2003 timeframe, but that depends on the availability of appropriate technology and the results of the test program.

SDIO has identified an option for fielding some test missile prototypes and a test radar at the first site on an earlier timetable. In the conference report we do not prohibit them from planning for these options, but we have included a provision in lawmaking it clear that we have not authorized SDIO to exercise any such option. Whether we might at some point in the future authorize an early deployment using test prototypes—as we did with the JSTARS radar surveillance aircraft during the gulf war—will depend on the development of the test program, the maturity of the technology, and our assessment of the threat.

The conference report also incorporates an important change in the Brilliant Pebbles Program. I have been concerned that SDIO continued to spend excessive amounts on this program, despite Congress' clear direction last year excluding it from the architecture for the multiple-site limited defense system. Since that eventual multisite system will not likely be completed until the second half of the next decade—in other words, sometime after 2005—there is no need to develop Brilliant Pebbles for possible deployment any sooner.

We had considerable debate in the conference on the space-based interceptor funding level. We finally settled on \$300 million for fiscal year 1993. That level is \$275 million below the administration's request and \$160 million below last year's appropriation. This action puts the Brilliant Pebbles funding profile on a downward slope, a course I believe is fully justified given the uncertainty over how and where this option might fit into the picture.

In other SDI-related action, the conferees added language to last year's Missile Defense Act making it clear that Congress expects any U.S. ABM deployments to comply with the ABM Treaty as it now exists or may be

amended. We directed DOD to transfer out of SDI and back to DARPA or the military services those far-term, follow-on technologies, such as lasers, which are not expected to be available for incorporation in operational weapons in the next 10 to 15 years. Finally, we put a cap of \$135 million on SDIO contracts for headquarters support services. Last year, SDIO spent \$160 million on such contracts, a level the conferees felt was clearly excessive.

#### OTHER CONFERENCE INITIATIVES

Mr. President, I want to briefly mention several other conference provisions.

I am pleased that the conferees agreed to the Senate provision that expands the 1991 Soviet Nuclear Threat Reduction Act by authorizing United States assistance for demilitarization of the former Soviet Union and for expanded military-to-military contacts. The conference report also increases the Defense Department's authority to transfer funds from other areas for these so-called Nunn-Lugar initiatives from the current level of \$400 to \$800 million.

I am also pleased that the conferees agreed to authorize several military- and civilian-based youth opportunities programs that were included in the Senate bill. The military-based programs will be operated by the National Guard, and the civilian-based programs by the Commission on National and Community Service. The objective of these programs will be to improve the life skills and employment potential of at-risk young people through training and work in community service projects. I want to acknowledge the contributions of Senator BYRD in developing the National Guard-Based Program, and Senators BOREN and KENNEDY in developing the civilian-based program.

The conferees also authorized the expansion of the Junior Reserve Office Training Corps [JROTC] that we have in our high schools from 1,600 to 3,500 units. This is a very popular and effective program that gives young people a sense of discipline, self respect and accomplishment. Gen. Colin Powell, who himself is a role model for young people throughout our country, played a key role in encouraging this initiative.

Finally, Mr. President, I want to briefly mention two provisions that are not in this conference report.

The conferees agreed not to include any limitations on U.S. nuclear weapons testing in this conference report since Congress has already enacted legislation in this area in the Fiscal Year 1993 Energy and Water Development Appropriations Act. Also, during the conference the House conferees indicated that the House is expected to take up the Senate-passed bill, S. 3144, authorizing reproductive health services, including abortions, for military members and their dependents sta-



tioned overseas in military medical facilities on a reimbursable basis. For this reason, the conferees decided not to include any legislation on this subject in this conference report. I understand that this bill, S. 3144, passed the House earlier this afternoon.

#### CONCLUSION

In closing, Mr. President, I want to thank again all of the members of the Armed Services Committee for their diligent work throughout the year on this bill through the whole year. As usual on a bill of this size, the chairmen and ranking minority members of the subcommittees performed the lion's share of the work of the conference.

I want to say a special word of thanks to my close friend and colleague, the Senator from Virginia, the ranking minority member of the committee.

The Senator from Virginia has been a stalwart on this bill, as he has on every other bill since he has been on the committee. He will continue to be a vital part of our Armed Services Committee. He will not be ranking member next year. Senator THURMOND will be taking that post. I look forward to working with Senator THURMOND.

I can only say no one as chairman of a committee could have had a better partner, a better colleague, and a more trusted individual to do business with. When we agreed, we worked closely; when we disagreed, we put the cards on the table. No one can ask for a better relationship.

The Senator from Virginia will continue a vital role in the U.S. Senate. He will still be a vital part of our committee. He will be, we hope on the Democratic side, the ranking member on the Intelligence Committee next year. Of course, he hopes he will be chairman, but the voters will determine that in November. In any event, he will be playing an important role, and I thank him for his stalwart efforts on the part of every man and woman who serve in the military, on the part of our national security and on the part of the taxpayers of this Nation.

I want to thank the staffs of both the House and Senate Armed Services Committees for their untiring and professional efforts on this bill. I also want to add a special note of appreciation to Greg Scott and Charlie Armstrong of the Senate legislative counsel, and Bob Cover, Sherry Chriss, and Greg Kostka of the House legislative counsel for their work on this bill.

Mr. President, this conference report represents the culmination of a great deal of hard work by many Senators. It is a good bill which continues the process of reducing and restructuring our defense establishment in an orderly way, and I urge my colleagues to support it.

Mr. President, I yield the floor.

Mr. DOLE. Mr. President, I am especially pleased that my distinguished

colleagues on the Senate Armed Services Committee have increased the very successful Department of Defense Transition Assistance Program.

The Transition Assistance Program has proven itself to be one of the most successful first steps for active duty men and women moving from the military to civilian life. It helps those soon to leave the service with counseling on job search and employment skills for the private sector. It ensures that they know what health and insurance benefits they have for themselves and their families. It provides information on private sector programs available to them in regard to retraining, education, and employment opportunities. And it also gives them counseling on how to look for a new career.

The program has been universally applauded by both the service members and those who have the responsibility to administer it. Up to now, the only problem that the program had was that budget constraints made it impossible to reach all department service members.

With the passage of the Defense authorization bill, the Transition Assistance Program will be expanded through 1995 to meet the increased demands created by the force reductions.

I congratulate my colleagues on the Senate Armed Services Committee for their efforts to bring this important program to the many deserving men and women who will need its services over the next 2 years.

Mr. WARNER. Mr. President, I certainly thank my good friend of many years, 14 to be exact and many before that when I was Secretary of the Navy. We worked together and we have been a good team, if I may say with some modesty. We will continue. I will happily remain on the committee.

Senator THURMOND, a man of unparalleled background in military affairs, I think one of the last Members, if not the last member of the U.S. Senate to have gone across the beaches at Normandy, will quite rightfully assume his place as ranking member on the leadership of the committee, in all probability, but that still remains to be seen, pending the outcome of the elections. But for the moment, we are all happy that Senator THURMOND at long last will take on this responsibility. It is one he has weighed very heavily in years past when he has allowed Senator Goldwater, Senator Tower, and myself to take over leadership positions which he was rightfully entitled to under the rules of our caucus.

I thank my good friend for the kind remarks. We are about to pass a historic bill on behalf of the men and women of the Armed Forces. A month to 6 weeks ago, Mr. President, I did not think this bill could pass for a variety of reasons. But our chairman tenaciously worked in a bipartisan manner, worked with the President and the

President's White House staff, the Secretary of Defense, Members on both sides of the aisle and this bill is a great credit to his leadership.

This bill is a credit to his leadership in being able to resolve very serious issues on which there were credible and honest differences of opinion. But we succeeded. We succeeded and momentarily we will pass that bill.

Mr. President, I join our distinguished chairman, the Senator from Georgia, in expressing our appreciation to the Members of the Senate Armed Services Committee. I noted just a moment ago that the Senator from Illinois [Mr. DIXON] was on the floor. He may reappear. I see the distinguished senior Senator from South Carolina present.

We work as a team, and I think we carried forth with our responsibility, to the extent it can be achieved in a legislative body, working in a non-partisan manner on behalf of the men and women of the Armed Forces and our overall defense posture for the United States.

I join with the distinguished Senator from Georgia in expressing my thanks and appreciation, again, to all of our colleagues in the Senate and the House Armed Services Committee under the leadership of Mr. ASPIN and Mr. DICKINSON—Mr. DICKINSON, likewise, will soon be retiring—for their cooperation in achieving a final resolution of the differences between the two Houses on the fiscal year 1993 defense authorization bill.

I also want to express my appreciation to the members on both the majority and minority staff of the Senate Armed Services Committee, together with members of the staff of the House Armed Services Committee and the military representatives who take care of the individual members on the committee with respect to their particular needs.

We all, as I say, operate as a team, and I think this year we have achieved another excellent piece of legislation which is in the interest of our Nation.

Within this conference agreement, we have made every effort to ensure that our military services continue to maintain the high standards of effectiveness we have grown to expect of them as we adjust to reduced defense budgets and reduced defense threats to our national security. Thruout this process we were continually mindful of the difficulties these sweeping changes impose on our military personnel and their families, our DOD civilians and the men and women in our defense industries.

After extended discussion, the conferees agreed on a diversified program to assist personnel, communities, and the industrial base in adjusting to the post-cold-war defense drawdown. The initiatives authorized in this bill are available to the Secretary of Defense to use at his discretion as a tool in

managing the potentially adverse impact of reductions in defense spending. I am sure the Secretary will use these authorities wisely and with compassion for those whose livelihoods will be affected in the coming years; and that is both men and women in uniform, DOD personnel and again men and women in the defense industry.

Mr. President, I am particularly pleased that the conferees agreed to authorize the full request for long-lead funding for the next replacement aircraft carrier, CVN-76. This is a matter on which I, Senator ROBB, and indeed all members of the Virginia delegation in the House of Representatives as a team worked very hard for, not just this year but for several years. I thank our colleagues, both in the Senate and in the House for making this possible.

The action of the conferees is fully consistent with and lays the foundation for the Navy's plan for full authorization of the carrier in fiscal year 1995. Construction of this ship is essential, in my judgment and the judgment of others, to maintain the modernization program for the Navy's carrier fleet, requiring retirement of older ships and replacement of the new carriers into the next century.

Recently we just retired the USS *Midway* after over 40 years of service, all over the world. A carrier is a small island of the United States, and is free to move anywhere in international waters at any time. Throughout our history Presidents have been awakened in the middle of the night to face a crisis and often their first question is, "Where is this crisis, and where is the nearest U.S. carrier which I may wish to direct to help that crisis?"

Carriers are the most flexible element of our overall force structure to provide the backbone for our forward deployed forces. Moreover, this year's funding is essential to maintain the nuclear power industrial base, particularly since no other nuclear-powered ships are now on order. Two Virginia facilities work on nuclear ships: the nuclear shipbuilding at Newport News Shipbuilding, and the nuclear powerplant work at the facilities of Babcock-Wilcox in Lynchburg, VA. These facilities are essential to maintain this industrial base. Construction of this ship in 1995 is important for maintaining our shipbuilding, and this industrial base. The aircraft carrier is an important program for Virginia, but more important it is vital to the future security of our Nation.

#### AVIATION

With respect to tactical aviation modernization issues, the conferees created a modernization yardstick by which to judge the acquisition of tactical aircraft, based on future defense needs and balanced by the reality of defense budget constraints. The role of tactical aircraft has long been seen throughout the world as one of the

United States greatest strengths. This bill, I believe, both preserves and perpetuates that strength.

The conferees agreed to authorize the 20-aircraft B-2 bomber fleet. This action will keep the B-2 production line moving, thereby avoiding a break that could increase the cost of the program. I have confidence that the performance tests will be satisfactory and that the B-2 Program will finally be completed.

#### MISSILE DEFENSES AND SPACE

Mr. President, I am pleased that the conferees agreed to authorize more than \$4 billion for missile defense programs. The restructured program is proceeding in accordance with the Congress' direction in the Missile Defense Act of 1991 to provide a measure of protection to Americans from limited strikes of ballistic missiles.

Mr. President, let me now turn to the issue of space. Regardless of force size, DOD will continue to require space-based communications, missile warning, surveillance, navigation, and weather forecasting. In order to meet these requirements, DOD currently spends about 15 percent of its total investment funding, that is, procurement and R&D funding on space-based systems, a level of funding which is 20 percent greater than the total investment budget of the Army. Moreover, DOD projects that investment in space systems will continue to increase over the future years defense plan.

Recognizing the growing operational and budgetary significance of space, the conferees emphasized the need for increased administration and congressional focus on space issues. The conferees, in the statement of managers, incorporated language from the Senate report directing the Secretary of Defense to develop an integrated space strategy in order to ensure proper funding of high priority efforts, to contain costs, to integrate promising technologies, and to increase launch and spacecraft availability. The conferees look forward to receiving the Secretary's report, which is due on April 15 of next year, so that we may take into account his recommendations on these important matters.

#### JROTC

Mr. President, one of the most significant items in this conference agreement is the increased authorization for the Junior Reserve Officers Training Corps [JROTC]. At the time the Senate Armed Services Committee was studying ways to better utilize the talents and resources of our military services to help the young people of our country, Gen. Colin Powell, Chairman of the Joint Chiefs of Staff, recommended to the President and to our committee that we consider a major expansion of the Junior ROTC Program. An examination of the JROTC Program convinced us that General Powell's recommendation was on target.

The JROTC Program currently provides leadership and citizenship train-

ing to approximately 225,000 cadets in schools across the United States and its territories and in the Department of Defense School System. The mission of the JROTC is: "To Motivate Young People to be Better Americans." This mission has remained unchanged for 75 years since the National Defense Act of 1916 established this important program.

The JROTC Program is structured to develop personal responsibility and qualities of integrity, loyalty, patriotism, and dedication in members of the cadet corps. The program stresses the importance of self-discipline and offers a support structure designed to help cadets avoid drugs, alcohol, and other harmful activities plaguing our schools. Cadets are taught methods of heightening self-image and are steered toward positive, productive behavior as an alternative to gang membership, as well as an added incentive to stay in school and graduate.

A key indicator of the program's success is that senior JROTC cadets generally graduate from high school at a rate up to 20 percent higher than other seniors. Since graduation from high school correlates strongly with success later in life, the JROTC Program is considered extremely valuable in the positive development of young people of high school age.

To qualify as a JROTC cadet, a student must be physically fit, at least 14 years old, of good moral character, and maintain an acceptable standard of academic achievement.

JROTC instructors are selected from the most qualified retired officers and noncommissioned officers. These instructors provide extremely positive role models for young cadets in the program. At a time when many highly qualified military personnel are retiring from the service earlier than they might have planned as a result of the sharp reductions underway in the military services, an expansion of the JROTC Program provides not only substantial benefits for the young people of our Nation, but also creates increased job opportunities for many military retirees within their area of experience. Although instructors must be certified by the respective military services, they are actually employees of the individual school system. These instructors receive their military retired pay plus the difference between their retired pay and what their pay and allowances would have been if they remained on active duty. The military service and the high school each pay one-half of the difference.

I am personally aware of an outstanding JROTC instructor, Commander Ronald A. Wild (ret.) from Southhampton, NY, who is an instructor in the JROTC Program at William Floyd High School in Mystic Beach, NY. I assure my colleagues that if Commander Wild is typical of JROTC



instructors, then the Nation is very well served by the JROTC Program and will benefit significantly from its expansion.

The President announced on August 24 of this year his plan to expand the JROTC Program by approximately doubling the number of JROTC units from about 1,500 up to 2,900. By adopting this conference report, the Congress will provide the necessary authorization for a total of 3,500 JROTC units.

#### ENVIRONMENTAL ISSUES

Mr. President, I have some concerns about the conferees' actions on environmental issues. While total defense spending is declining, spending on environmental cleanup and research continues to grow. The Department of Defense is attempting to live within a limited defense budget by reducing infrastructure costs and closing unnecessary bases. But real savings do not materialize until the base is closed, the property is closed, the property is cleaned to agreed environmental standards, and the property is transferred out of DOD's control.

One major problem in this process is the long lag-time between the base closure decision and the actual transfer of the base, at which time no additional DOD expenditures are required. To reduce this time, several actions must be coordinated. One such action would be to speed the process of assessing environmental cleanup requirements, finalizing a contract with an environmental cleanup company, and beginning the cleanup operation in a timely manner. Unfortunately, major environmental cleanup contracts are somewhat reluctant to move swiftly in this area because of potentially heavy liability risks and insufficient insurance to cover the increased risks.

The Department currently lists over 17,000 sites at over 1,800 installations nationwide where environmental cleanup activities may be necessary. DOD depends upon private industry for the expertise and technology to restore these sites to accepted environmental standards. However, many environmental restoration contractors are concerned about their potential exposure to substantial legal and financial liability resulting from association with DOD's waste cleanup programs. These firms are not willing to risk their businesses, even with the enormous dollar amount of potential contracts available for these activities.

Most of the firms with the expertise and technology to deal with the large scope of the DOD cleanup program have made it clear that they will not participate in DOD contracts without adequate liability protection.

Mr. President, the Senate-passed bill included a provision to authorize contractor indemnification, which could have provided an incentive for major contractors to participate in the clean-

up process. Unfortunately, the conferees chose not to accept the Senate position and, instead, directed yet another study of the need for indemnification. As a result of the conference position, a substantial part of the DOD cleanup effort will be delayed at least until next year at the earliest, and the most-qualified environmental restoration firms are not likely to participate.

Mr. President, this issue has been under study for years, but the Department of Defense has yet to propose a policy on contractor indemnification. The latest study directed by the conferees must be submitted to the Armed Services Committee by May 15 of next year.

Mr. President, the Congress has an obligation to the public to ensure that the environmental cleanup of these sites proceeds as safely, rapidly, and effectively as possible. The Armed Services Committees will continue to oversee DOD's progress in this area. I will urge my colleagues next year to take decisive action on the indemnification issue to ensure that this obstacle to proceeding with DOD's environmental restoration program is removed.

#### BURDENSARING ISSUES

Mr. President, the conference report includes a number of provisions dealing with relations with our friends and allies around the world. The most controversial of these were the provisions on burdensharing. As my colleagues know, the House bill contained a number of burdensharing provisions which called for drastic and rapid cuts in U.S. troop strengths overseas, and reductions as high as \$3.5 billion in U.S. spending on overseas basing activities in fiscal year 1993. In my opinion, and that of a majority of the Senate conferees, the House burdensharing package would have seriously damaged U.S. relations with our allies, as well as the quality of life of U.S. troops stationed overseas.

The conferees agreed to a carefully crafted compromise on these issues that addresses the belief that our allies should do more to offset the cost of deploying U.S. forces overseas, without losing sight of the fact that U.S. troops are stationed overseas first and foremost because it is in our national security interest to do so. The conferees agreed to require a reduction in U.S. spending on overseas operation and maintenance and military construction of \$500 million, or approximately 5 percent, from the requested level; call on the President to enter into agreements which would require our allies to assume an increased share of the costs of U.S. military installations overseas; reduce U.S. troops in Europe to a level of 100,000 by the end of fiscal year 1996; and reduce the overall level of U.S. forces permanently stationed overseas to 60 percent of its fiscal year 1992 level by the end of fiscal year 1996.

Mr. President, I endorse the decisions of the conferees in reaching agreement

on the many issues in disagreement between the two Houses, and I urge my colleagues to vote in favor of the conference report.

Mr. DOMENICI. I am extremely pleased that the conference committee included language that provides equitable treatment of spouses or former spouses of Armed Forces members who are terminated as a result of misconduct of the member or former member involving abuse of that member's dependent.

This rectifies an omission of present law that prohibits an abused family from receiving the benefits to which it would have otherwise been entitled had the abuse never occurred.

Simply said, this provision corrects an injustice suffered only by military families. This language now provides some measures of relief for those who have experienced dual hardships: The abuse itself and the adverse financial consequences for disclosing the abuse.

I sincerely appreciate the efforts of the chairman of the Armed Services Committee for ensuring that these families receive the benefits they have so rightfully earned.

Upon review of this language, I would like to ensure that I understand certain provisions of this legislation.

First, it is my understanding that a spouse or former spouse is eligible to receive a portion of retirement benefits providing there is a court order for the spouse or former spouse to receive such payments. The court orders may include such orders as a separation agreement, a divorce decree, an order for separate maintenance, a modification of a final decree of divorce, or an order to set aside a decree. Further, it is my understanding that the requirement to provide such an order in no way implies that a spouse is required to divorce or seek a divorce to be eligible to receive such benefits.

Mr. NUNN. That is correct. The bill uses the definition in 10 U.S.C. 1408(a)(2), which includes a court order involving a legal separation, as well as a divorce.

Mr. DOMENICI. Second, it is my understanding that this language covers all dependents who were victims of abuse, including a spouse, a former spouse, and a dependent child of a former member of the armed forces. Therefore, these dependents are eligible to receive such benefits as medical and dental care, commissary and exchange store privileges, and any other benefits deemed appropriate.

Mr. NUNN. I agree. The purpose of this provision is to provide the dependents of the former member with the same benefits as would have been provided under the Former Spouse Protection Act if the member had been retired rather than discharged.

Mr. DOMENICI. Third, it is my understanding that it is the intent of this language that no payments will accrue

to a spouse or former spouse prior to the date of enactment of this act. Using a hypothetical case, this means that a spouse or former spouse who was separated or divorced from an Armed Services member in 1989, and now makes an application to the Secretary concerned with an acceptable court order obtained subsequent to enactment of this act, will be eligible for benefits assuming all other conditions of the act have been met, as of the date of service upon the Secretary. We anticipate that the certification of the amount due will be issued expeditiously by the Secretary.

Mr. NUNN. That is the intent of the conferees.

Mr. DOMENICI. Fourth, I would like to note that as passed by the Senate, the amendment requested a specific study by the Department of Defense for transmittal to Congress no later than February 28, 1992. It was the intent that this study would be all-inclusive relative to Armed Forces members, regardless of the years of service.

To this end, I note that the revised conference report language does not require this study to be transmitted to Congress until December 15, 1993. I would like to suggest strongly that every possible attempt be made to provide this report as expeditiously as possible before the required date of transmittal, preferably no later than June 15, 1993. I do not believe this should prove to be a difficult task. Given the seriousness of this issue for families of Armed Forces members who are not retirement-eligible, every effort must be made to ensure that we quickly address the problems for this special group of people, as noted by both the chairman and ranking minority member for the Armed Services Committee during the Senate debate of this matter.

Mr. NUNN. I agree that every effort should be made to complete the study expeditiously and transmit it to Congress by next June.

I commend my friend, the Senator from New Mexico, for bringing this problem to the attention of the Senate. He has made a vital contribution, and I believe the conference agreement will do much to assist in addressing the serious problem of spouse and child abuse. I appreciate the opportunity to clarify my understanding of the intent of these provisions.

Mr. DOMENICI. I thank my good friend, the distinguished Senator from Georgia, for his thoughtful clarifications and kind remarks.

Mr. THURMOND addressed the Chair. The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, Representative Joseph Cannon, who served in the House of Representatives for 46 years and as the Speaker from 1903 to 1911, is quoted as saying: "Nearly all legislation is the result of compromise."

The conference report on the fiscal year 1993 national defense authorization bill that the Senate is now considering is a good compromise. In my judgment, this legislation incorporates the best of both the House and Senate bills. It supplies the basis for a strong national defense, provided we do not bow to the continuing pressure to cut defense spending even further.

Mr. President, the able chairman of the Armed Services Committee, Senator NUNN, and ranking member, the distinguished senior Senator from Virginia, JOHN WARNER, have already presented a comprehensive overview of the report. Therefore, I will emphasize only a few issues that I consider important to the Nation.

First, the conference report authorizes improvements in health care benefits for our men and women in uniform. Over the past several years, as the defense budget has declined, the benefits for our service members—both active and retired—have eroded. This bill will restore credibility to the military medical care system.

Mr. President, one of the most difficult issues that the Armed Services Committee has dealt with since 1990 is the draw down in size of our volunteer forces. This conference report supplies extensive personnel transition benefits for both the active and reserve components. These benefits are the Nation's acknowledgment for a job well done and a mechanism to ease the transition into the civilian economy.

The conference report also provides a broad range of programs to address the needs of our communities and businesses that are impacted by the defense drawdown. Based on my own experience with the closing of Myrtle Beach Air Force Base, I know the \$4.9 billion allocated for this effort is sorely needed.

Mr. President, the final point I wish to make on the conference report is in regard to the decision to make minimal cuts to our Reserve components. The administration requested a reduction of 169,000 men and women in the Reserves. The conferees reduced that number to approximately 94,000. We have been criticized for not taking greater cuts. I reject that criticism. Last year's defense bill mandated an independent study of the existing and projected active and reserve component force structure, force mix, and end strength and directed that study to make recommendations for reductions or revisions in the future. That study is due later this year. To have made the cuts recommended by the administration would have prejudged the results of the study and would have been a disservice to the loyal and dedicated men and women in our reserve components. In my judgment, the conferees acted with integrity and forethought in retaining the higher Reserve component end-strength.

Mr. President, in closing I want to compliment all of the conferees for their dedication and willingness to compromise on their particular programs. It was this spirit of cooperation that made the conference agreement possible. First and foremost among these are our chairman, Senator NUNN, and the ranking member, Senator WARNER. They spent countless hours negotiating with members to lead us to this outcome. It was only through their tenacity, skill, and genuine concern for the defense of our great Nation that we are about to pass and send to the President the fiscal year 1993 national defense authorization bill. I want to thank and congratulate them on their leadership.

Mr. President, I urge adoption of this conference report and yield the floor.

Mr. PELL. Mr. President, I would like to congratulate the Senator from Georgia, Senator NUNN, and the Senator from Virginia, Senator WARNER, for the balance in this bill, and also for the attention that was given to conversion. I think it is an excellent bill, and I am very glad to support it.

Mr. NUNN. Mr. President, I thank the Senator from Rhode Island for his remarks, and I thank him for his splendid cooperation. I also congratulate him on his splendid leadership on the START Treaty which passed earlier this week. The Foreign Relations Committee spent a great deal of time and effort in that. They are to be commended.

I thank the Senator from South Carolina for his statement and for his stalwart support in all these years on the defense authorization committee. And I have already said today, but will repeat while he is on the floor, that I look forward very much to continuing our close relationship and particularly working closely with him as the ranking Republican on this committee next year. He has been a joy to work with over the years, and I think without any doubt we will have a good partnership as we proceed to handle the national security interests of this country, whether he is ranking Republican or whether he is chairman of the committee, and depending on the outcome of the November election.

Mr. WARNER. Mr. President, will the chairman yield for just a moment?

I wish to also join in thanking the distinguished chairman of the Foreign Relations Committee. Our two committees work together very closely in a cooperative spirit, among the members of the two committees as well as the staff of the two committees. We have joint jurisdiction over a number of matters from time to time by referral to each of the committees. Without that cooperation, we could not do our work.

Also, again I thank the Senator from South Carolina, Senator THURMOND, for his contribution. We look forward to



working under his leadership next year. The road has not always been smooth for Senator NUNN and I, but I imagine things might move a little more swiftly under the guidance of Senator THURMOND, our distinguished colleague from South Carolina.

Mr. THURMOND. I thank the Senator for his kind remarks. It will be a pleasure to work with him, also. He is an able chairman.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from Nebraska [Mr. EXON].

Mr. EXON. I thank the Chair.

Mr. President, let me add my words of thanks particularly to Senator NUNN and Senator WARNER, the most effective two leaders that we have had in the Armed Services Committee.

Also I wish to thank my very dear friend, Senator THURMOND, who I have worked with in tandem for the last several years on the strategic and nuclear deterrent subcommittee. I look forward to serving with him next year on the committee as he takes over the Republican side of the committee.

It is our hope that he will not be the ranking majority member, but we hope that whatever position in which Senator THURMOND serves along with our distinguished colleague from the State of Virginia we will continue to work in tandem on a bipartisan basis. I have served on many committees. I have served on many conferences with the House of Representatives. I think there have been few if any partisanship whatsoever brought into any of the decisions that were made.

Just let me say that I think that the proposal that we are about to pass here is one more salute to the excellent relationship between the Senator from Georgia and the Senator from Virginia, who I think have led with great distinction in tandem the responsible decisions that the Armed Services Committee has made over the years.

This was a particularly difficult year. It is much easier to be chairman of the committee, or the ranking member thereof, when we had all of the money in the world, so to speak, to spend on about everything that anyone could ever have imagined.

This was a watershed year. I believe that the committee has come up with a very responsible bill amountwise. We are going to have further challenges as we go on down the road.

I predict, Mr. President, that the Armed Services Committee will continue to work out our differences on a nonpartisan basis. And therefore, lead the way to a responsible national defense figure in the budgets that will follow, while recognizing that we have a very tough job to do and many, many important decisions, difficult ones indeed that we will face, and we have faced them in the past.

Thanks again to the chairman of the committee, Senator NUNN, and the

ranking member, Senator WARNER, for a job exceptionally well done in the opinion of this Senator.

I yield the floor.

Mr. NUNN. Mr. President, first let me thank my colleague from Nebraska for his kind words, and most of all for his terrific leadership in one of the most difficult areas of our committee, and that is the strategic subcommittee. That subcommittee has some of the most contentious and in many ways the most important issues that not only confront our committee but confront the world as we struggle to make our country safer, and to make the world safer.

The Senator from Nebraska has been a pillar of strength in that area for years, with his common sense, his sound judgment, his tenacity, and his courage. I am deeply indebted to him as the chairman of this committee. And I thank him very much.

Mr. President, I will take just a moment to explain one provision that is an important provision in this bill that has been dropped by the conferees. I want to explain briefly why.

This provision in question was section 914, entitled: "Continuing Requirement for Reporting on Operational Activities." Simply stated this provision required the Secretary of Defense to ensure that the Armed Services Committees of both the House and Senate are fully and currently informed of all operational activities carried out by the Department of Defense. The provision made clear that matters covered by the War Powers Resolution would continue to be reported pursuant to that legislation and would not be affected by our bill.

The term operational activity was defined as an activity involving introduction of unit or units of the Armed Forces into the territorial air space or waters of another country for other than traditional peacetime activities or routine support for such activities. This provision was modeled after existing laws relating to the Department of State and the intelligence community and the requirement for the Secretary of State and the Director of central intelligence to keep the oversight committees of the Congress fully and currently informed of their activities.

By a letter dated September 22, 1992, Secretary Cheney advised us that it is his view that the proposed legislation was unnecessary, and unwise, and unconstitutional. The latter two concerns were based upon the President's authority and duties as Commander in Chief to ensure that no action was taken that could imperil the safety or success of the military operation.

Secretary Cheney stated that making information available to 74 Members of the Congress, 54 in the House and 20 in the Senate, on details of sensitive military operations would put American lives at risk and jeopardize the success of military missions.

I want to emphasize that at this point the legislation merely created an after-the-fact notification requirement. It would not have required notification of any contingency planning.

While I do not in any way concede the validity of the Secretary's constitutional argument, it would have been a fairly simple matter to refine the language of our provision to narrow the number of Members who would be informed so that the operational security would be preserved. More importantly, Secretary Cheney expressed his view that the legislation was unnecessary because in his words "existing executive legislative customs with respect to consultation and notification observed as a matter of comity keep appropriate congressional leaders informed with respect to significant military activities."

Additionally, the General Counsel of the Department of Defense assured our staff that the committees on armed services will be kept advised of operational activities as a matter of comity and in a spirit of cooperation.

Finally, Secretary Cheney advised that if the legislation was presented to the President, his senior advisers would recommend that he veto it. Accordingly, since we have received the assurance that the Defense Department would ensure that we will be informed of operational activities, and in order to avoid a veto on this important legislation at such a late date in the legislative session, we have decided to drop this provision.

I want to assure the Senate, however, that my intention is to revisit this in the next session of Congress. I will carefully monitor the Department of Defense's cooperation with the Armed Services Committee throughout the coming year. It may be that legislation will not be necessary, because I hope we will be fully and currently informed by the Defense Department, and will not first learn of an operational activity from the news media.

That has not always been the case, and I want to make it clear that this is our expectation. We believe we have received the word of the Department of Defense and the Secretary through his spokesman on this matter.

If we are not kept informed, as we believe we have been assured that we will be, I can assure the Senate that I will sponsor legislation next year to ensure that the Armed Services Committee is able to exercise its important oversight and legislative responsibilities.

This is an important matter. It will not drop. It will not slip through the cracks. We expect to be informed. We will make sure that the number of Members will be appropriately limited, depending on the circumstances, and upon the executive branch request, but we do not intend to be bypassed in this area.

It would be absolutely ridiculous to believe that we have control over intel-

ligence activities through the CIA, and then to have the whole Defense Department be able to conduct operational activities without informing the Congress in a timely fashion. I wanted to make this point abundantly clear as to why the provision was dropped, as to the assurances we have received, and as to the dedication of this Senator. I believe most of the Members of this body want to make sure that we are informed, as we believe it is the duty of the executive branch to inform us, as to what is transpiring with our military forces.

I yield the floor.

JOB TRAINING FOR RECENTLY DISCHARGED  
SERVICEMEMBERS

Mr. CRANSTON. Mr. President, as chairman of the Committee on Veterans' Affairs, I am delighted that the conference report on H.R. 5006, the National Defense Authorization Act of 1993, includes, in subtitle G of title 44, the Service Members Occupational Conversion and Training Act of 1992, a job training program for servicemembers who recently have been discharged from the military. I worked closely with the distinguished chairman of the Armed Services Committee, Mr. NUNN, and ranking Republican member, Mr. WARNER, on these provisions.

The Senate unanimously passed only a few days ago in S. 2515 a job training program that would be similar in many respects except that it would be for unemployed veterans generally. That measure was introduced on April 2, 1992, by the distinguished Senator from Arizona, my colleague on the Veterans' Affairs Committee, Mr. DECONCINI, and I was delighted to work with him in the development of S. 2515 and to join as a cosponsor.

I also note the efforts of my good friend and chairman of the House Committee on Veterans' Affairs, Mr. MONTGOMERY, as well as the chairman of the House Veterans' Affairs Committee's Subcommittee on Education, Training, and Employment, Mr. PENNY, who authored H.R. 5254, a veterans' job training bill similar to S. 2515, and succeeded in including in the original House version of H.R. 5006 a job training program for servicemembers leaving the military. Subtitle G of title 44 of the conference report reflects the culmination of our efforts in this regard this year within the limitations imposed by the inclusion of this program in defense authorization legislation and the use of Department of Defense funding for the program.

Mr. President, we expect 400,000 servicemembers to be separated from the Armed Forces over 5 years due to the downsizing of the military establishment. Another 300,000 per year will leave the military through attrition.

Mr. President, I am concerned that many of the soon-to-be-separated servicemembers entered the Armed

Forces in hopes of long, satisfying careers and that, in light of the current weakness of the economy, those careers will come to a premature end at a most unfortunate time. The program contained in the conference report would provide incentives to employers to hire and train eligible individuals in fields leading to stable, long-term employment.

Specifically, this program would provide job training opportunities to unemployed ex-servicemembers discharged on or after August 2, 1990, who are unemployed for at least 8 of 15 weeks prior to application for the program, who specialized in an occupational skill that is not readily transferable to the civilian work force, or who have a service-connected disability rated at 30 percent or more.

The program would provide payments to employers in order to defray the costs of a participant's training. The amount payable to an employer would be 50 percent of the participant's salary except that payments would not exceed \$12,000 for those with service-connected disabilities rated at 30 percent or more or \$10,000 for all other participants.

Mr. President, this job training program incorporates certain features of the Emergency Veterans' Job Training Act of 1983, later named the Veterans' Job Training Act [VJTA], enacted in Public Law 98-77 on August 15, 1983, as significantly revised by section 11 of Public Law 100-323, enacted on May 20, 1988. I am especially pleased that the program incorporates various improvements that I developed and were enacted in 1988 in Public Law 100-323 to improve the administration of VJTA and facilitate the successful completion of job training programs by participants through more effective counseling and consultative services. The program would furnish to eligible participants employment counseling and guidance services relating to the development of job-readiness skills. Also, the program would authorize case management services to those who need such assistance, particularly those who withdraw, either voluntarily or involuntarily, from a job training program and apply to participate in another such program. Under the case management program, a disabled veterans outreach program specialist would personally interview the participant within 60 days after the beginning of the participant's training program and generally monthly thereafter unless, in certain cases, case management services are not necessary.

Mr. President, in closing I thank the members of the House and Senate Armed Services Committees for agreeing to include this measure in the conference report, and my good friend from Arizona, Mr. DECONCINI, for his outstanding contributions in the development of this important job training program.

The program in the conference report is badly needed to assist servicemembers who are being displaced from the military, through no fault of their own, into difficult economic circumstances. Now that we have reached the point at which major reductions in our military establishment are possible, we have a direct and important responsibility to assist servicemembers who will be facing the prospect of long unemployment lines. This job training program seeks to fulfill this responsibility.

Mr. GLENN. Mr. President, I think it's great that we now have an agreed Defense authorization bill, and one that is very, very far reaching in many issue areas. As always, Sam NUNN and JOHN WARNER, as chair and ranking member of the Senate Armed Services Committee, accomplished a herculean task in putting people and issues together to get what I feel is an outstanding piece of legislation.

There is one matter, however, that is not addressed in the fiscal year 1993 Defense authorization bill, a matter that both the House and the Senate agreed to, in fact a nonconferenceable item. That is the provision that grants access to reproductive health care services overseas to U.S. military women and military dependents on a prepaid basis, a service that is readily available in this country but is unavailable, unsafe, or extremely expensive overseas.

Mr. President, the Senate affirmed this provision just 2½ weeks ago as part of the floor debate on the fiscal year 1993 Senate Defense authorization bill. An amendment to delete this provision was defeated by the convincing vote of 55 to 36.

Nonetheless, despite overwhelming support by both Houses of Congress and all four committees of jurisdiction for this provision, President Bush said he would veto the Defense authorization bill if that provision were in it. With so much contained in the underlying bill both for our Nation and for so many millions of people, both military and civilian, the Senate and House Armed Services Committees in conference elected to split this badly needed abortion provision out of the underlying bill and send it to the President separately for signature.

I have no doubt that the President will follow through on his threat to veto the reproductive health services bill; however, I doubt seriously he will confront the issue head on. It would just be too hard a veto to justify to a nation which overwhelmingly subscribes to this legislation. Rather, I fully expect a Presidential pocket veto on the bill. By not acting on it at all, the President prevents the bill from becoming law because the 102d Congress will no longer be in session to reaffirm its position.

Mr. President, once again I want to compliment Senator WIRTH, our col-



league from Colorado, for sponsoring this provision, not only this year, but for the past 3 years. He and I have worked closely together over these years to achieve equality for our women in uniform, to remove them from the status of second-class citizens as they serve their country overseas.

In the interest of clarity, I want to repeat some of my earlier remarks of 2 weeks ago to ensure that the Senate and the American public are fully aware of the ramifications of this reproductive health care services provision.

Mr. President, the issue is clear: This Nation has an obligation to ensure that each individual in the military who serves our country overseas has access to the same family health care that could be received here in the United States; to deny servicemembers and their families this equal protection is both discriminatory and grossly unfair. The bill that will be sent to the President ensures that this obligation is honored. We cannot have one standard for Americans here, and a separate standard for our military personnel who are serving our country at foreign locations.

Mr. President, the issue we are debating today dates back to June 1988 when the then Assistant Secretary of Defense for Health Affairs put out a letter prohibiting U.S. military health care facilities overseas from providing the then available full range of reproductive health services after September 30, 1988. The Secretary was not reacting to any statutory direction. Rather, he was reflecting a judgment of the administration that allowing military members and their families overseas to continue to receive prepaid reproductive health services in U.S. facilities overseas, "might suggest insensitivity to the spirit of the congressionally enacted policy of withholding government involvement in the provision of abortions."

So let's be clear—it was not Federal law that created a health and financial burden for our military members and families overseas; it's because the Assistant Secretary of Defense didn't want DOD to be accused of insensitivity. I suggest that, far from curing a problem, the Secretary, in his policy letter, did exactly the opposite by demonstrating gross insensitivity to the needs of our military personnel and their families.

Mr. President, the Congress has acted responsibly to correct this injustice, only to see the bill headed for a Presidential veto which the Congress will not be in session to overturn.

I emphasize to everyone that this provision grants access only. It does not dictate in any way how any individual may in her conscience decide to act.

Mr. President, I can summarize the issue in very succinct terms: Many of

our military personnel overseas are stationed in areas where safe reproductive health care is not available in local facilities, or, if it is available, it is extremely expensive compared to similar services that were provided in U.S. military facilities overseas on a prepaid basis prior to October 1988. All this bill does is restore the right of access to these services on a prepaid basis, and to correct the second-class citizenship status of our people serving their country overseas.

So, Mr. President, I repeat what I said at the outset of my remarks. I think it is very unfortunate that we have had to package this provision separately from the underlying fiscal year 1993 Defense authorization bill in order to avert a veto by President Bush of the whole authorization bill.

Since apparently the President and the administration is determined to keep our women in uniform, and female military dependents overseas relegated to second-class citizenship status, let him answer to the American electorate. For my part, I pledge to renew my fight as necessary next year to ensure that we succeed once and for all in enacting this badly needed provision into law.

#### SELECTED MANPOWER PROVISIONS

Mr. President, I also want to offer some short comments today about the manpower provisions in the fiscal year 1993 Defense authorization bill.

As chairman of the Manpower and Personnel Subcommittee of the Armed Services Committee, I want to tell my colleagues and the American public that this bill contains the most substantive, far-reaching, and inclusive package of manpower provisions we have ever enacted in my years on the committee.

In crafting the bill, we particularly emphasized initiatives which address the transition needs of military members, DOD civilians, and workers in displaced defense industry as we continue the Nation's dramatic downsizing of defense manpower and force structure. Importantly, we put a high premium on qualifying persons who are leaving military and defense-oriented positions so that they can enter public and community service, a segment of our domestic economy that so desperately needs help.

As we pulled this bill together, we coordinated very actively with a number of other Senate committees and, in particular, the Veterans' Affairs Committee, the Labor and Human Resources Committee, and the Governmental Affairs Committee whose work is represented in many ways in our bill. I want to express my thanks and appreciation to those Senators and staff members on these other committees for their fine work.

But I want most particularly to thank my good friend from Arizona, Senator JOHN MCCAIN, the ranking

member on the Manpower Subcommittee, for his hard work, thoughtful initiatives, and active cooperation in putting together this bipartisan package of provisions.

One last recognition of quality performance: Mr. Fred Pang of the subcommittee staff has been a never-ending source of good ideas, sound advice, and intelligent negotiation with other individuals and organizations as we crafted manpower legislation over the past 6 years that he has been on the staff; his performance this year has been particularly noteworthy. I think that few, if any, would disagree with my judgment that Fred is the finest defense manpower expert in this town of many notable experts, and I thank him for his hard and effective work on the committee's behalf.

With that preamble, I want to highlight a number of manpower provisions that I think are especially far reaching and substantive that are contained in the bill. I ask unanimous consent that the highlights be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

#### DEFENSE AUTHORIZATION HIGHLIGHTS

##### I. ACTIVE FORCES TRANSITION ENHANCEMENTS

1. Active duty early retirement. Authorizes active duty personnel who have 15 but less than 20 years of service to apply for and be approved for early retirement.

2. Opportunity for certain persons to enroll in the Montgomery G.I. Bill. Permits recipients of the special separation benefits (SSB) program and the voluntary separation incentive (VSI) to pay a \$1,200 contribution and elect to participate in the Montgomery G.I. Bill.

3. Reserve drill pay exemption. Repeals the VSI program requirement that any active or reserve pay be fully offset against current VSI payments; repeals the VSI provision disallowing any credit under the civil service retirement system for those years of military service countable for determining VSI payments; makes VSI recipients eligible for the involuntary separation benefits package.

4. Improved conversion health policies as part of transitional medical care. Extends the term of conversion health policies from 12 to 18 months.

5. Continued health coverage for members and dependents upon separation. Establishes a program for continued health benefits coverage under the federal employees health benefit (FEHB) program for former service members and their dependents who are no longer eligible for health care in the military health care delivery system.

##### II. GUARD AND RESERVE TRANSITION INITIATIVES

1. Transition period and members affected. Applies to personnel in the Selected Reserve from October 1, 1991 to the end of fiscal year 1995.

2. Restriction on reserve force reduction. Prohibits the involuntary separation of a Selected Reservist during the transition period ending September 30, 1995 until the Secretary of Defense has promulgated and submitted to Congress regulations that implement these provisions.

3. Transition plan requirements. Ensures that both separating active and reserve com-

ponent personnel will be given priority over non-prior service applicants for Selected Reserve positions.

4. Force reduction period retirements. Allows Selected Reservists who have 20 years of credit for reserve retirement and who are in a Selected Reserve unit to apply for reassignment from the Selected Reserve unit to the Retired Reserve in order to draw an immediate, reduced retirement annuity.

5. Retirements with 15 years of service. Allows Selected Reservists who have at least 15 but less than 20 years of credit for reserve retirement to apply for reassignment from the Selected Reserve to the Retired Reserve, with eligibility for reserve retirement pay at age 60 based on the number of years of reserve retirement credit they have accrued.

6. Separation pay. Authorizes the payment of separation pay to Selected Reservists who have six but less than 15 years of service and who are being involuntarily released from the Selected Reserve because their units are being deactivated during the transition period.

7. Waiver of continued service requirement for reserve G.I. Bill benefits. Allows Selected Reservists who must leave the Selected Reserve because of the National Guard and Reserve downsizing during the transition period to continue to receive reserve G.I. Bill educational assistance.

8. Commissary and exchange privileges. Authorizes Selected Reservists who must leave the Selected Reserve because of the National Guard and Reserve downsizing during the transition period to retain their eligibility to use military commissary and exchange shopping facilities for two years following the date they leave the Selected Reserve.

### III. DOD CIVILIAN PERSONNEL TRANSITION INITIATIVES

1. Re-employment of certain displaced federal employees. Requires federal agencies to give full consideration to qualified displaced Department of Defense employees for up to 24 months after the employee has been separated before hiring candidates outside the agency.

2. Reduction-in-force notification requirements. Requires federal agencies to issue specific written notices to all federal employees and their representatives at least 60 days prior to a reduction-in-force (RIF) action.

3. Restoration of certain leave. Allows federal civilian employees at military bases scheduled for closure between October 1, 1992, and December 31, 1997, to accumulate unlimited annual leave.

4. Skill training programs in the Department of Defense. Allows the Secretary of Defense to provide up to one year of training in Department of Defense training facilities to separated civilian employees from October 1, 1992 through September 30, 1995.

5. Separation Pay. Authorizes the Secretary of Defense to establish a program to offer separation pay to regular or early retirees as well as to employees who resign voluntarily in order to encourage eligible employees to accept regular or early retirement. The separation pay would be equal to the amount an employee would receive as if eligible under the severance pay formula or \$25,000, whichever is less.

6. Thrift savings plan benefits for federal employees separated by a reduction-in-force. Allows federal employees who are involuntarily separated due to a reduction-in-force to withdraw their thrift savings plan (TSP) accounts in lump sum payments, or elect to leave their money in the plan.

7. Continued health benefits. Allows involuntarily separated Department of Defense civilian employees to elect to continue health benefits coverage under the federal employees health benefits program (FEHBP) for up to 18 months following separation.

### IV. DEFENSE EFFORTS TO RELIEVE SHORTAGES OF ELEMENTARY AND SECONDARY SCHOOL TEACHERS AND TEACHER'S AIDES

1. Teacher and teacher aide placement program for separated members of the armed forces. Authorizes the Secretary of Defense to establish a program to assist eligible servicemembers in becoming teachers and teacher's aides upon separation from the military services.

2. Teacher and teacher's aides placement program for terminated defense employees. Authorizes the Secretary of Defense to establish a program to assist civilian employees of the Department of Defense and Department of Energy in becoming teachers and teacher's aides upon termination of employment as a result of reductions in defense spending or the closure or realignment of military installations.

3. Teacher and teacher's aide placement program for displaced scientists and engineers of defense contractors. Establishes a program to assist eligible scientists and engineers employed by defense contractors or subcontractors in becoming teachers or teacher's aides.

4. Funding for fiscal year 1993. Authorizes \$65 million to fund teacher and teacher's aide provisions.

### V. JOB TRAINING AND EMPLOYMENT AND EDUCATIONAL OPPORTUNITIES

1. Active force personnel transition enhancements. Requires the Secretary of Defense, in consultation with other appropriate Cabinet Secretaries, to implement a program to encourage and assist separating or retiring military personnel to enter public or community service jobs.

2. Educational leave of absence. Authorizes active duty personnel who do not have readily transferable skills, such as personnel in the combat arms, to apply for up to one year of educational leave of absence to obtain civilian skill training.

3. Retirement credit for critical underserved jobs. Authorizes active duty personnel who are approved for early retirement to accrue additional military retirement credit if they take critical, underserved jobs, such as in education, law enforcement, and health care.

4. Training, adjustment assistance, and employment services for discharged military personnel, terminated defense employees, and displaced employees of defense contractors. Expands title III of the Job Training Partnership Act (JTPA) to provide \$75 million to fund re-employment and training programs specifically designed to meet the needs of individuals who are displaced by the drawdown in defense activity by the government and industry.

5. Participation of discharged military personnel in upward bound projects to prepare for college. Authorizes the Secretary of Defense to assist eligible members of the armed forces in an upward bound project to prepare for college.

6. Improvements to employment and training assistance for dislocated workers under the Job Training Partnership Act. Amends the dislocated worker program of the Job Training Partnership Act by expanding the responsibilities of state dislocated worker units, providing more flexibility for state rapid response assistance to defense conver-

sion re-employment problems, and permitting the transfer of federal property and equipment to job training programs or education programs at no cost.

7. Job Bank program for discharged military personnel, terminated defense employees, and displaced employees of defense contractors. Authorizes the Secretary of Defense to establish a program to expand the services and access to the Interstate Job Bank of the United States Employment Service and authorizes \$4.0 million for that purpose.

8. Extension of appropriations for assistance. Extends through fiscal year 1995 the authority for appropriations for certain employment, job training, and other assistance provided by the National Defense Authorization Act for Fiscal Year 1991.

### VI. SERVICE MEMBERS OCCUPATIONAL CONVERSION AND TRAINING ACT OF 1992

1. Purpose. To provide additional means by which the Secretary of Defense can manage the drawdown of the armed forces and to provide additional forms of assistance to servicemembers who are forced or induced to leave the military and directs the Secretary to implement the program not later than 60 day after the date of enactment.

2. Eligibility. An individual must: (1) be unemployed at the time of applying to participate in the program; (2) either (a) be unemployed for at least 8 of 15 weeks prior to application for the program (not taking into account periods of temporary or intermittent employment), (b) have specialized in an occupational skill that is not readily transferable to the civilian workforce (as determined by the Secretary), or (c) have a service-connected disability rated at 30 percent or more; (3) have served in active military service for more than 90 days; and (4) be discharged on or after August 2, 1990. Participants will be provided the opportunity to appeal a denial of certification.

3. Period to training. Requires a job training program to provide training for a period of not less than 6 months nor more than 18 months in an occupation in a growth industry or in an occupation requiring the use of new technological skills so as to permit training in a field of employment providing a reasonable probability of stable, long-term employment.

4. Approval of employer programs. Excludes from a job training program any position that consists of intermittent employment, is in any department of the federal government, displaces other employees, or violates certain other conditions outlined in that provision.

5. Payments to employers. Provides for the implementing official to make certain payments to employers.

6. Provision of training through educational institutions. Allows an employer to enter into an agreement with an educational institution to provide training under this program.

### CUBAN DEMOCRACY ACT OF 1992 (TITLE XII OF S. 3114, THE NATIONAL DEFENSE AUTHORIZATION ACT)

Mr. MACK. I would like to ask a question of my colleague and fellow original cosponsor of the Cuban Democracy Act of 1992, which is title XII of the National Defense Authorization Act. My question relates to section 1205(e) of the act, which permits telecommunications service to Cuba from the United States. The intent of this language was to open up communica-



tions to Cuba for the families and friends of Cuban nationals living outside of Cuba. By virtue of this provision, United States companies can now provide telecommunications services from the United States to Cuba. This provision does not, however, appear to permit foreign subsidiaries of U.S. firms to provide the same services from outside the United States. In fact, section 1206 of this act expressly prohibits foreign subsidiaries of United States firms from obtaining licenses for transactions with Cuba. In my view, it was not the intention of the authors that subsidiaries of United States companies be prohibited from trading with Cuba in cases where the Cuban Democracy Act permits trade by United States companies based in the United States. My question is, was it the intent of Congress to permit only the provision of telecommunication service from the United States to Cuba, or to permit United States firms and their subsidiaries, wherever located to provide such service?

Mr. GRAHAM. I agree with the Senator's understanding. It was not the intent of Congress for subsidiaries of U.S. companies to be prohibited from trade that would be permitted under the Cuban Democracy Act if they were located in the United States. Specifically, the intent of section 1205(e) is to allow United States firms and their foreign subsidiaries to provide telecommunications service and facilities to Cuba.

#### SECTION 836

Mr. WARNER. Section 836 prohibits the award of certain DOD contracts that require the use of special access information to be performed. It is my understanding that the requirements in section 836 with respect to the definition of the term "proscribed category of information" are not intended to require any change in existing policy regarding security classification or the related definitions presently used, just as such requirements also are not intended to restrict in any way the Secretary of Defense's administrative discretion over such matters.

Mr. BINGAMAN. Speaking as the author of this provision, I agree with the understanding of the Senator from Virginia.

Mr. MACK. I am pleased to support this legislation, for in addition to the vitally important national defense initiatives which it embraces, it includes three very important provisions for the State of Florida.

This bill places Congress officially on record designating Mayport as the next homeport for nuclear-powered aircraft carriers on the east coast. For the past three decades, Mayport has played a vital role for the Navy and for America. This legislation guarantees that Mayport will continue to defend freedom around the world for decades to come. As nuclear carriers replace con-

ventional ones, America simply must create a second homeport for them on the east coast. I'm happy, but not surprised, Mayport has been identified as the ideal choice. I want the city of Jacksonville, as well as Mayport's dedicated men and women, to know that this action brightens and solidifies Mayport's future.

This bill includes the Cuban Democracy Act, which I have worked hard for several years to see passed into law. Because of this legislation, a stronger embargo against Fidel Castro is finally close to certainty. The bottom line on this issue has little to do with trade. It's about human rights and freedom. The people of Cuba will now have greater hope that America stands squarely behind them in their charge for freedom against their tyrannical dictator. They understand that freedom is the core of all human progress. Strengthening the embargo against Castro will squeeze the funds he needs to continue his tyranny. This measure will help bring him down. Let the countdown to freedom begin.

This bill includes three important measures designed to help the men and women who were attached to Homestead Air Force Base put their lives back together in the wake of Hurricane Andrew. America has an obligation to help our servicemembers and their families in the time of need. Many of Homestead's personnel lost their homes during Hurricane Andrew, and have now been assigned to new duty stations. Unfortunately, they didn't have the opportunity to fix, sell or rent their homes before they were ordered out and forced to establish second residences. They now face the very real threat of bankruptcy unless we move to help them. This action will provide Homestead's eligible military and civilian employees with the financial assistance and hope they need to help them begin the long process of recovery.

While I cannot endorse all the provisions of this year's defense authorization, many important steps are taken. I was disappointed that the President's full request for the strategic defense initiative was not authorized, but pleased that long-lead funding for the next aircraft carrier, CVN-76, was fully funded. I am troubled by the scope of some of the defense conversion initiatives embraced by the bill, but happy to see that several important RDT&E programs include the A-X, V-22, *Comanche* helicopter, Close Combat Tactical Trainer and Advanced Tactical Airborne Reconnaissance System were funded.

Mr. RIEGLE. Mr. President, in 1989, the National Center for Manufacturing Sciences [NCMS] began establishing a nationwide teaching factory network for the rapid deployment of advanced manufacturing processes and technologies. It is NCMS' goal to pursue a

150-center network geographically distributed in proportion to manufacturing activity, with at least one center in every State. It is the purpose of these centers to help small- and medium-sized companies meet the Defense Department's needs for high-quality defense-critical goods that are produced in a timely, cost-effective manner. Especially during these changing times, I am hopeful that the centers can help facilitate the transition from defense to commercial markets while maintaining a strong industrial base.

It is my understanding that teaching factories, such as the Institute for Advanced Flexible Manufacturing Systems in West Virginia and the Advanced Manufacturing Center at New Mexico State University, could be supported by various programs included in this legislation, like Regional Technology Alliances, Defense Manufacturing Extension, and Dual-Use Technology and Industrial Base Extension Programs.

It is the intent of this legislation that organizations be allowed to compete for funding to establish teaching factories under the transition programs included in this bill.

Mr. BUMPERS. Mr. President, I would like to express my support for the concept of teaching factories and intend to follow the progress of the establishment of such a program in the State of Arkansas. Small companies are the core of our industrial and technology base, but often are unable to successfully adopt the new technologies and processes needed to become world-class manufacturers. Teaching factories will help combat that problem. In addition, these centers could also have an added objective of strengthening domestic small business manufacturing capabilities in the critical technologies as defined by the Departments of Defense and Commerce. DOD can work with industry through these centers to insure that the needs of the defense industrial base, especially in the area of critical technologies, are met with domestic suppliers.

According to the U.S. Small Business Administration, less than 10 percent of defense manufacturing is performed by U.S. small business. Furthermore, significant subtler defense manufacturing jobs have migrated offshore. I believe that Congress and DOD should consider initiating a program that would search out critical component manufacturing which has migrated offshore in the past due to inadequate domestic capability. Then, using teaching factories, we can help small businesses extend their capabilities to include the production of these components. In this way we are able to help small manufacturers during this time of defense build-down, while ensuring that we have strong and competitive domestic supply tiers. I intend to look into the development of such a concept early next year.

Mr. PRYOR. Mr. President, I join my colleagues in showing my support for these centers. The University of Arkansas and the NCMS are working together to establish such facility in Fayetteville, AR. Teaching factories can be a tool for maintaining our industrial base and the various components of the Technology and Industrial Base Transition and Reinvestment Program can be a vehicle to help support this effort. Teaching factories can help these new programs meet their goal of a more competitive manufacturing base in the United States.

Mr. BINGAMAN. Mr. President, the Senator from Michigan is correct that it was our intention that teaching factories, as well as other cost-shared assistance efforts, be eligible to compete on a merit basis for funding under the programs authorized in this bill. The defense manufacturing extension program in particular is geared toward extension efforts such as those that teaching factories may undertake.

Mr. COATS. Mr. President, since 98 percent of all manufacturing firms employ less than 500 people, the health of these small firms is critical. Improvements in manufacturing technology can help companies, especially those adversely impacted by the defense build-down, by restructuring their production process so that they can more easily produce multiple product lines. The teaching factory concept designed by the NCMS, may prove helpful in assisting these small manufacturers to modernize especially during this time of transition. I support the notion that teaching factories should be eligible to compete for assistance under the Industrial Base Transition and Reinvestment Program.

Mr. RIEGLE. Mr. President, I appreciate the comments from my colleagues. As a Senator from one of the key manufacturing States in our Nation, I am encouraged to see such recognition of the importance of teaching factories and NCMS' efforts.

Mr. WARNER. As far as I know, on this side, all matters are concluded.

#### UNANIMOUS-CONSENT AGREEMENT

Mr. NUNN. Mr. President, I ask unanimous consent that when the conference report accompanying H.R. 5006 is received from the House, the Senate be deemed to have agreed to it, the motion to reconsider laid upon the table, and all of the above occur without intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DIXON. Mr. President, the conference report on H.R. 5006, National Defense Authorization Act for Fiscal Year 1993, continues the process of reshaping the U.S. defense establishment for a post-cold-war world. This bill represents the culmination of a great deal

of hard work by the members and staff of the Armed Services Committee, and I urge my colleagues to support it.

As chairman of the Subcommittee on Readiness, Sustainability and Support, I want to take a few moments to highlight for my colleagues the provisions in the conference report under the subcommittee's jurisdiction. My subcommittee has oversight responsibility for programs totaling approximately \$99.5 billion in the fiscal year 1993 defense budget, the largest funding jurisdiction of any subcommittee on the Armed Services Committee and a little over one-third of the total defense budget.

One of the major issues facing the conferees was the overall level of funding in the O&M accounts, which are the accounts that provide funding for training, operating tempo, and maintenance and repair of equipment. The House version of the Defense authorization bill made reductions in these accounts totaling almost \$6.2 billion below the budget request. The reductions in the Senate bill were much more modest—approximately \$2.3 billion below the budget request. I am pleased that the conferees came out closer to the Senate level than the House level by recommending reductions totaling \$3.1 billion in these accounts for fiscal year 1993.

The conferees endorsed the Readiness Subcommittee's major initiative in the area of inventory management in the Department of Defense. This initiative will produce savings of \$3.0 billion in fiscal year 1993 by:

Reducing new inventory coming into the DOD supply system by putting a cap of 65 percent of sales on obligations for new purchases of inventory through the defense business operations fund;

Encouraging the military services to return excess stocks located in operating units to the supply system to reduce future purchases by withholding funds from the O&M accounts that can only be used if these excess stocks are turned in;

Addressing the problem of excess on order stocks that we discussed in our hearings this year and that GAO has talked about—procurements for items for which a requirement no longer exists—by reducing funds in the Army and Air Force that can be recouped through cancellations of these unnecessary purchases;

Reducing overall funding requested by operating units and weapons system program offices to purchase new inventory in fiscal year 1993 by 5 percent; and

Directing the Defense Department to review their retention policies for retaining stocks in the supply system. Current policies require the services to retain many items in stock far past their useful life.

We have to be careful in this area, because inventory purchases can have a

direct relationship to training and readiness. I think we have crafted a package of initiatives that provides enough incentives to the military services that they can recoup a large portion of this reduction by changing the way they order and manage their secondary item inventories.

In the area of recruiting, the conferees also adopted the Readiness Subcommittee's three-part initiative that:

Reduces O&M funding for recruiting in fiscal year 1993 by \$24 million, providing a level of recruiting support in fiscal year 1993 that is 5 percent below fiscal year 1992 and 10 percent below fiscal year 1991;

Requires a reduction of 10 percent over the next 2 fiscal years in the number of military personnel assigned to recruiting functions in the military services. This provision will reduce recruiting costs by \$130-150 million per year once the reductions are in place; and

Directs the Air Force and the Navy to consider consolidating their active and reserve recruiting organizations under a single command similar to the Army and Marine Corps recruiting commands.

There were a number of what I would call economy and efficiency reductions in the Senate-passed bill under the subcommittee's jurisdiction that affect all of the military services. Almost all of these—including reductions in travel and printing costs, contract advisory and assistance services, and administrative airlift flying hours—were adopted by the conferees.

The Readiness Subcommittee also had jurisdiction over portions of the defense transition and conversion initiatives in the Senate bill dealing with assistance to local communities which were adopted by the conferees. These initiatives include an increase of \$50 million for the Defense Department's Office of Economic Adjustment; a total of \$155 million for the job retraining and economic development grants authorized the Defense Economic Adjustment Act that we passed in 1990; and \$58 million for payments to local school districts heavily impacted by DOD military dependents.

There are several legislative provisions adopted by the conferees which I want to highlight. One would broaden the authority we enacted last year for the military services to compete their depot maintenance workload between DOD depots and private contractors. This competition program is beginning to produce real savings, and I am glad the conferees agreed with the Readiness Subcommittee that it should be expanded beyond the pilot program contained in last year's Act.

In the environmental area, the conference agreement would ensure that individuals and entities who acquire land as a result of the base closure process are fully protected from any fu-



ture environmental liabilities associated with the Defense Department's use of the land. A second provision requires the Defense Department of take aggressive actions to eliminate wherever possible the use of ozone depleting substances.

COTS

Mr. DIXON. Mr. President, I am advised on a problem in the drafting of the conference report on the 1993 National Defense Authorization Act.

As chairman of the Readiness Subcommittee, I have long been an advocate of the use of commercial-off-the-shelf [COTS] technologies by DOD whenever effective and efficient.

My staff was assured last summer that DOD was considering COTS technologies for use in the corporate information management [CIM] systems.

My staff later learned that COTS technologies are not being provided for in the environmental CIM, currently being organized in OSD.

Language was drafted for the conference report that would have asked DOD to analyze the use of COTS technologies in the CIM Programs and report to the committee.

I would request that the chairman of the Readiness Subcommittee in the next Congress address this problem at the earliest opportunity.

Mr. WARNER. Mr. President, I ask unanimous consent that statements by any members of the Armed Services Committee or other Members of the Senate in relation to this conference report, H.R. 5006; that the RECORD remain open today throughout the course of the day to receive those statements.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, in closing I again, want to thank the staffs of both the House and Senate Armed Services Committee for their untiring and professional efforts, along with Gregg Scott and Charlie Armstrong, of the Senate Legislative Counsel; and Bob Cover, Sherry Chriss, and Greg Kostka, of the House Legislative Counsel for their extraordinary work on this bill. Our staffs have worked around the clock, virtually, for the last 2 weeks, and they worked very diligently during August; otherwise, we would not have been able to handle the important section of this report. This is an unusually long conference report, because of the defense conversions provisions which are enormously important, but also rather detailed and complex.

Mr. President, again, I thank the members of my staff, Arnold Dunaro, David Lyles, Fred, Pang, and Andy Effron who are on the floor now, along with every single other member of our dedicated committee staff. I thank Pat Tucker, Les Brownlee, and many others on Senator WARNER's staff that are worked together. The staff always works hard, but I have never known of a more diligent effort than this one.

Anyone looking at this conference report, and realizing that it was put together in the last 10 days, can only marvel at the efficiency and effectiveness and hard work of every member of the committee staff. Without them, we could not get the job done. We are grateful to them.

Mr. President, I yield.

Mr. WARNER. I join the distinguished chairman in expressing my profound appreciation for all members of the committee and for the work done by the majority and minority staff. I want to thank Pat Tucker, who is beside me in the Chamber, Les Brownlee, Ann Elise Sauer, Skip Ringo, Judy Ansley, Ken Johnson, Jack Mansfield, Gary Sojka, Mark Robinson, Ron Kelly, Jon Etherton, George Lauffer, Jennifer Atkin, Sarah Hoyt, Susie Wigdale, and Barbara Gallo. We thank them all.

Mr. NUNN. Mr. President, I think the minority has us outnumbered. I am going to have to go back and check.

Mr. WARNER. I think there are a few more of us working here today, but that is all right. We work together as a team. For the RECORD, all should know that our staffs work very closely together.

#### NATIONAL AFRICAN-AMERICAN MEMORIAL MUSEUM ACT

Mr. WARNER. At this time, Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 520, S. 523, a bill to authorize the establishment of the National African-American Memorial Museum within the Smithsonian Institution, to which Senator GARN and myself and others have appended an amendment relating to the facilities for the future Air and Space Museum.

Also included in this is a revision of the Senator from Virginia, together with the Senator from Utah [Mr. HATCH] and others, whereby a portion of the new facility be named in honor of our departing colleague, the Senator from Utah [Mr. GARN]. This particular building that will be named in his honor will, hopefully, be the one that will house certain space elements which will be a part of the permanent collection in this Air and Space Museum.

The PRESIDING OFFICER. The clerk will report the bill by title.

The bill clerk read as follows:

A bill (S. 523) to authorize the establishment of the National African-American Memorial Museum within the Smithsonian Institution.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Rules and Administration with an

amendment striking all after the enacting clause and inserting in lieu thereof the following:

#### TITLE I—NATIONAL AFRICAN AMERICAN MUSEUM

##### SEC. 101. SHORT TITLE.

This title may be cited as the "National African American Museum Act".

##### SEC. 102. FINDINGS.

(a) FINDINGS.—The Congress finds that—

(1) the presentation and preservation of African American life, art, history, and culture within the National Park System and other Federal entities is inadequate;

(2) the inadequate presentation and preservation of African American life, art, history, and culture seriously restricts the ability of the people of the United States, particularly African Americans, to understand themselves and their past;

(3) African American life, art, history, and culture includes the varied experiences of Africans in slavery and freedom and the continued struggles for full recognition of citizenship and treatment with human dignity;

(4) in enacting Public Law 99-511, the Congress encouraged support for the establishment of a commemorative structure within the National Park System, or on other Federal lands, dedicated to the promotion of understanding, knowledge, opportunity, and equality for all people;

(5) the establishment of a national museum and the conducting of interpretive and educational programs, dedicated to the heritage and culture of African Americans, will help to inspire and educate the people of the United States regarding the cultural legacy of African Americans and the contributions made by African Americans to the society of the United States; and

(6) the Smithsonian Institution operates 15 museums and galleries, a zoological park, and 5 major research facilities, none of which is a national institution devoted solely to African American life, art, history, or culture.

##### SEC. 103. ESTABLISHMENT OF THE NATIONAL AFRICAN AMERICAN MUSEUM.

(a) ESTABLISHMENT.—There is established within the Smithsonian Institution a Museum, which shall be known as the "National African American Museum".

(b) PURPOSE.—The purpose of the Museum is to provide—

(1) a center for scholarship relating to African American life, art, history, and culture;

(2) a location for permanent and temporary exhibits documenting African American life, art, history, and culture;

(3) a location for the collection and study of artifacts and documents relating to African American life, art, history, and culture;

(4) a location for public education programs relating to African American life, art, history, and culture; and

(5) a location for training of museum professionals and others in the arts, humanities, and sciences regarding museum practices related to African American life, art, history, and culture.

##### SEC. 104. LOCATION AND CONSTRUCTION OF THE NATIONAL AFRICAN AMERICAN MUSEUM.

The Board of Regents is authorized to plan, design, reconstruct, and renovate the Arts and Industries Building of the Smithsonian Institution to house the Museum.

##### SEC. 105. BOARD OF TRUSTEES OF MUSEUM.

(a) ESTABLISHMENT.—There is established in the Smithsonian Institution the Board of Trustees of the National African American Museum.

(b) COMPOSITION AND APPOINTMENT.—The Board of Trustees shall be composed of 23 members as follows:

(1) The Secretary of the Smithsonian Institution.

(2) An Assistant Secretary of the Smithsonian Institution, designated by the Board of Regents.

(3) Twenty-one individuals of diverse disciplines and geographical residence who are committed to the advancement of knowledge of African American art, history, and culture appointed by the Board of Regents, of which 9 members shall be from among individuals nominated by African American museums, historically black colleges and universities, and cultural or other organizations.

(c) TERMS.—

(1) IN GENERAL.—Except as provided in paragraph (2), members of the Board of Trustees shall be appointed for terms of 3 years. Members of the Board of Trustees may be reappointed.

(2) STAGGERED TERMS.—As designated by the Board of Regents at the time of initial appointments under paragraph (3) of subsection (a), the terms of 7 members shall expire at the end of 1 year, the terms of 7 members shall expire at the end of 2 years, and the terms of 7 members shall expire at the end of 3 years.

(d) VACANCIES.—A vacancy on the Board of Trustees shall not affect its powers and shall be filled in the manner in which the original appointment was made. Any member appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of the member was appointed shall be appointed for the remainder of the term.

(e) NONCOMPENSATION.—Except as provided in subsection (f), members of the Board of Trustees shall serve without pay.

(f) EXPENSES.—Members of the Board of Trustees shall receive per diem, travel, and transportation expenses for each day, including traveltime, during which they are engaged in the performance of the duties of the Board of Trustees in accordance with section 5703 of title 5, United States Code, with respect to employees serving intermittently in the Government service.

(g) CHAIRPERSON.—The Board of Trustees shall elect a chairperson by a majority vote of the members of the Board of Trustees.

(h) MEETINGS.—The Board of Trustees shall meet at the call of the chairperson or upon the written request of a majority of its members, but shall meet not less than 2 times each year.

(i) QUORUM.—A majority of the Board of Trustees shall constitute a quorum for purposes of conducting business, but a lesser number may receive information on behalf of the Board of Trustees.

(j) VOLUNTARY SERVICES.—Notwithstanding section 1342 of title 31, United States Code, the chairperson of the Board of Trustees may accept for the Board of Trustees voluntary services provided by a member of the Board of Trustees.

**SEC. 106. DUTIES OF THE BOARD OF TRUSTEES OF THE MUSEUM.**

(a) IN GENERAL.—The Board of Trustees shall—

(1) recommend annual budgets for the Museum;

(2) consistent with the general policy established by the Board of Regents, have the sole authority to—

(A) loan, exchange, sell, or otherwise dispose of any part of the collections of the Museum, but only if the funds generated by such disposition are used for additions to the collections of the Museum or for additions to the endowment of the Museum;

(B) subject to the availability of funds and the provisions of annual budgets of the Museum, purchase, accept, borrow, or otherwise acquire artifacts and other property for addition to the collections of the Museum;

(C) establish policy with respect to the utilization of the collections of the Museum; and

(D) establish policy regarding programming, education, exhibitions, and research, with respect to the life and culture of African Americans, the role of African Americans in the history of the United States, and the contributions of African Americans to society;

(3) consistent with the general policy established by the Board of Regents, have authority to—

(A) provide for restoration, preservation, and maintenance of the collections of the Museum;

(B) solicit funds for the Museum and determine the purposes to which those funds shall be used;

(C) approve expenditures from the endowment of the Museum, or of income generated from the endowment, for any purpose of the Museum; and

(D) consult with, advise, and support the Director in the operation of the Museum;

(4) establish programs in cooperation with other African American museums, historically black colleges and universities, historical societies, educational institutions, cultural and other organizations for the education and promotion of understanding regarding African American life, art, history, and culture;

(5) support the efforts of other African American museums, historically black colleges and universities, and cultural and other organizations to educate and promote understanding regarding African American life, art, history, and culture, including—

(A) development of cooperative programs and exhibitions;

(B) identification, management, and care of collections;

(C) participation in the training of museum professionals; and

(D) creating opportunities for—

(i) research fellowships; and

(ii) professional and student internships;

(6) adopt bylaws to carry out the functions of the Board of Trustees; and

(7) report annually to the Board of Regents on the acquisition, disposition, and display of African American objects and artifacts and on other appropriate matters.

**SEC. 107. DIRECTOR AND STAFF.**

(a) IN GENERAL.—The Secretary of the Smithsonian Institution, in consultation with the Board of Trustees, shall appoint a Director who shall manage the Museum.

(b) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Secretary of the Smithsonian Institution may—

(1) appoint the Director and 5 employees under subsection (a), without regard to the provisions of title 5, United States Code, governing appointments in the competitive service; and

(2) fix the pay of the Director and such 5 employees, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

**SEC. 108. DEFINITIONS.**

For purposes of this title:

(1) The term "Board of Regents" means the Board of Regents of the Smithsonian Institution.

(2) The term "Board of Trustees" means the Board of Trustees of the National African American Museum established in section 105(a).

(3) The term "Museum" means the National African American Museum established under section 103(a).

(4) The term "Arts and Industries Building" means the building located on the Mall at 900 Jefferson Drive, S.W. in Washington, the District of Columbia.

**SEC. 109. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to carry out this title \$5,000,000 for fiscal year 1993 and such sums as may be necessary for each of the succeeding fiscal years.

**TITLE II—EXTENSION OF THE NATIONAL AIR AND SPACE MUSEUM**

**SEC. 201. EXTENSION OF THE NATIONAL AIR AND SPACE MUSEUM.**

The Board of Regents of the Smithsonian Institution is authorized to plan and design an extension of the National Air and Space Museum at Washington Dulles International Airport.

**SEC. 202. AUTHORIZATION OF APPROPRIATIONS.**

Effective October 1, 1992, there is authorized to be appropriated to the Board of Regents of the Smithsonian Institution \$9,000,000 to carry out the purposes of this title.

Amend the title so as to read: "A bill to authorize the establishment of the National African American Museum within the Smithsonian Institution."

Mr. WARNER. Mr. President, I rise to speak on a bill that passed the Senate earlier today. This legislation, S. 523, authorizes the establishment of the National African American Museum within the Smithsonian Institution. The museum will provide a centralized location for exhibitions, scholarships, collections of artifacts and documents, educational programs and training of museum professionals, in the areas of African American life, art, history, and culture. This landmark legislation creates the first single institution devoted entirely to African Americans which collects, analyzes, researches, and organizes exhibitions on a scale comparable to those of major museums devoted to other aspects of American life. I look forward to its establishment in the arts and industries building on The Mall just a few blocks from our Nation's Capitol.

I would now like to speak on title II of S. 523, which authorizes the Board of Regents of the Smithsonian Institution to plan and design an extension of the National Air and Space Museum at Washington Dulles International Airport.

I believe we are all aware of the fact that legislation to expand the National Air and Space Museum at Washington Dulles International Airport has four times been favorably reported by the Senate Committee on Rules and Administration and that this marks the third time the U.S. Senate has approved such legislation. The Board of Regents of the Smithsonian has voted at least six times in favor of sighting the extension at Dulles.

Last Wednesday the House of Representatives, by a vote of 106 to 317, overwhelmingly rejected an attempt to establish an advisory panel to determine the site for the planned extension and I ask unanimous consent that an editorial from the September 30, 1992 Washington Post regarding the Smithsonian extension site selection process be included in the record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered. (See Exhibit I).

Mr. WARNER. This legislation is the result of many years of hard work by Senator GARN, who serves on the



Smithsonian Board of Regents, the Board of Regents and its staff, and the Commonwealth of Virginia. The legislation represents an objective decision to do what is best for the future of the Smithsonian Institution and most importantly, the American public.

In September 1983, the Smithsonian Board of Regents first approved the National Air and Space Museum plan to expand at Washington Dulles International Airport. Since then, the Board has expressed support for the extension at Dulles over and over again. Through four Governors—John Dalton, CHARLES ROBB, Gerald Baliles, and now Douglas Wilder—the Commonwealth has also continued to support the concept of the extension and its location in Virginia.

This legislation would serve to further the objectives of the National Museum Amendments Act of 1965 which directs the National Air and Space Museum to "collect, preserve, and display aeronautical and space flight equipment of historical interest and significance."

I believe that it is accurate to state that the National Air and Space Museum now holds the most impressive and significant collection of spacecraft and aircraft in the world. However, due to the limited exhibition space in The Mall building coupled with the size and weight of many of the artifacts, only 25 percent of the museum's collection is on display. Therefore, such significant air and spacecraft as the Boeing 367-80, the Saturn V launch vehicle, the Boeing Flying Fortress, the B-29 *Enola Gay*, and the space orbiter *Enterprise* cannot be displayed and enjoyed by the nearly 10 million visitors the museum receives each year. In addition, the museum's space limitations inhibit the interpretation of aerospace technology's significant contribution to all societies and the possibilities which it holds for the future.

The limited storage space and poor conditions at the Smithsonian Garber facility in Suitland, MD, endangers artifacts currently in the Air and Space Museum collections and curtails its ability to accept other artifacts.

Irreplaceable aircraft—A priceless part of our national heritage—are deteriorating because congress cannot make a decision on the siting of this museum extension. This can no longer be tolerated.

The continued, strong support from the Board of Regents, the Commonwealth of Virginia and the Senate for this project is a testimony to the importance of the extension. I would like to reiterate that this support has been for the extension of the museum at Dulles. Therefore, I must mention the substantial financial commitment which the Commonwealth has made to this project.

Virginia's commitment includes: a \$3 million interest-free loan for planning and design work; State bonding author-

ity to finance up to \$100 million in debt for the initial construction phase of the extension; a commitment to provide the required site improvements at a total cost of \$26 million; in direct funds, \$6 million toward the construction costs, and another \$6 million raised through private and local contributions; a pledge to work with local governments, the Washington Metropolitan Area Transit Authority and others to develop rail passenger service between the West Falls Church Metro Station and the museum site by the year 2000; a willingness to initiate metrolike bus service between the extension and the Smithsonian's facilities on The Mall, and plans for construction of the Barnsfield road interchange on Route 28 at an estimated cost of \$15 million.

The support for the museum's extension at Dulles is also largely due to the site's logistical and physical characteristics.

These characteristics include: proximity to an active runway; flexibility in building configuration and space for future expansion; adequacy of existing and projected transportation networks for visitor access and artifact movement; compatibility with existing airport operations and absence of vibration, noise, and fumes; potential numbers of visitors; geological configuration and subsurface conditions, and the availability of utilities and vital support services.

It is important for the Senate to be aware of the General Accounting Office's [GAO] involvement in the proposed extension. In February and March 1991 the Smithsonian met with officials from GAO to resolve several concerns which GAO staff had expressed with the scope of the proposed extension and the Smithsonian's site selection process.

In addition to the site characteristics mentioned previously, the Smithsonian reemphasized the importance of siting the extension in the Washington-Metropolitan area rather than splitting the collection between The Mall location and a remote location. Such a split could not provide "A comprehensive and balanced view of the history, technology, and social aspects of air and space flight." Smithsonian officials realized in the 1960's that an extension of the building on The Mall would be necessary and since that time the proposed expansion has always been viewed as an extension of the museum on The Mall, not as a separate museum.

The Smithsonian also verified the significant cost differential in constructing and operating an extension at Dulles versus a remote location.

After much discussion and study, the GAO concluded in a March 20, 1991 letter to House Interior Appropriations Subcommittee Chairman YATES that "we now believe the choice of Dulles

International Airport as the preferred site can be objectively defended by the Smithsonian."

In addition, in May 1991, the Board of Regents concurred to the GAO's recommendation and agreed to reduce the scope of the extension limiting it to meeting the museum's most immediate needs to protect, preserve, and restore the collection and provide public access to significant portions of the collection. This reduces the overall project cost to \$162 million, half of the originally estimated cost.

Mr. President, it is time for self-interested parties to accept the conclusions of the Board of Regents, the Senate Committee on Rules and Administration, the U.S. Senate and the GAO that Washington Dulles International Airport is the most practical, convenient, and cost-effective location for the extension of the Air and Space Museum.

I call on every Member of the Senate to support this amendment which will make the expansion of the National Air and Space Museum at Washington Dulles International Airport a reality. As we have so recently witnessed in the operations of Desert Storm in the Persian Gulf, Air and Space Technology has and will continue to greatly impact every facet of our lives. The creation of this extension will enable visitors from all over the world to experience first hand the magnitude and significance of man's technological achievements.

#### A MUSEUM RAFFLE IN THE HOUSE?

Today's pork barrel special on the floor of the House is H.R. 3281, an outlandish proposal to raffle off the Smithsonian's planned National Air and Space Museum extension to some site in the United States—instead of letting the facility be where the Smithsonian's Board of Regents has voted five times since 1983 to put it—in the Washington region at Dulles International Airport. Like other efforts over the years to undo a logical plan for putting the museum at Dulles, the latest bill is an attempt to lobby support for sticking the museum annex at the abandoned Denver Stapleton Airport when the new airport opens in that city. That idea, along with other suggestions that the annex site be switched to Baltimore-Washington International, has been studied and rejected before. Why vote for another expensive delay, this time with an expensive "nationwide competition" for a site?

In a "Dear Colleague" pitch from Reps. David Skaggs of Colorado and Benjamin Cardin of Maryland, the bill is described as "your chance to get a Smithsonian museum in your district." At some unspecified cost, it would set up a "national competition" to select a site. This would be an expensive duplication—the Smithsonian's regents started their search for a site in 1981 with criteria that included proximity to the Mall and an active runway to move some of the biggest items, such as a Boeing 707 and 747. The Smithsonian spent \$350,000 to study BWI and Dulles as possible sites. Then in 1989, at the request of the mayor of Denver, it spent an additional \$50,000 to study Stapleton in Denver. On five separate occasions, the board has reasserted its preference for Dulles. The late Carmen Turner, undersecretary of the

Smithsonian, last year requested a GAO review of the selection process. GAO concluded the choice of Dulles could be "objectively defended by the Smithsonian."

Congress should let the Smithsonian stick to its original logical plan. House members can let this happen by rejecting the raffle-stall bill, which is being pushed in the last-minute rush to adjournment.

Mr. SIMON. I am pleased the Senate has passed S. 523, the National African-American Museum Act. I thank my colleagues for sharing my belief that the time has come for this country to build a national museum to honor and document the heritage of this country's 30 million African-Americans. I would specifically like to thank Senators JOHN MCCAIN and WENDELL FORD for their efforts in support of this legislation.

Some will continue to ask why this museum? Why not an Irish-American or a German-American museum? Frankly, the history of the United States unfortunately shows us that two racial groups were severely mistreated and had a very different American education. Their experience should be remembered and their heritage should be celebrated. One group, native Americans, has been successful in having its story told nationally on The Mall. The second, African-Americans, will be when this act is signed into law.

African-Americans have made significant contributions to America's rich heritage. Regrettably however, to date the full story of African-American history has not been told. The time has come for the creation of a world-class museum to highlight these valuable contributions and display them for all the world to see and appreciate. S. 523, the National African-American Museum bill, introduced this Congress, would create such a museum within the Smithsonian Institution.

Museums are tools of immense power to educate, enrich, and entertain. An African-American Museum would help to educate all Americans about the contributions of African-Americans. The museum will help facilitate the knowledge and understanding of African-American culture that may change unhealthy attitudes and help foster better relations between people of all races.

African-Americans make up 12 percent of the population in the United States, and there are over 29 million African-American citizens. Of the over 40 million school children in the United States, 16.2 percent are African-American. These children need to learn about their ancestors' role in shaping this Nation. Indeed, all Americans would be enriched by this knowledge. In addition, of the 30 million visitors to the Smithsonian every year, many are from other countries. These travelers also use museums to gain cultural impressions and information. If we are to preserve and present the American heritage to all Americans and to the

world, then we must include the contributions of African-Americans.

#### ESTABLISHING THE AFRICAN-AMERICAN MUSEUM UNDER THE AUSPICES OF THE SMITHSONIAN INSTITUTION

Some have expressed concern about placing the museum within the Smithsonian given its poor record on minority issues. I believe that there is validity to this complaint; however, I am encouraged by the Smithsonian's expressed commitment to improve in this area.

The Smithsonian Institution's 5-year prospectus, "Choosing the Future," outlines the Smithsonian's commitment to cultural pluralism throughout the institution. Among the new initiatives are the wider recruitment, hiring, and retention of women and minority professionals, an increase in African-American programming, and more effective outreach to diverse cultural audiences. As stated in the prospectus, "The Institution is committed to changing its exhibitions and educational programs to provide the public with meaningful and comprehensive interpretations of all cultures. It has also committed to internal institutional changes affecting the current profile of its work force and the representation of cultures on its administrative and advisory boards and commissions."

The Smithsonian Institution would bring prominence and stature to the National African-American Museum, as well as its 146 years of museum experience.

#### EXPANSION OF THE ANACOSTIA MUSEUM

A few have pointed to the Anacostia Museum as an example of a national African-American museum supported by the Smithsonian Institution. The Smithsonian created the Anacostia Museum as a neighborhood and community museum in 1967. It was never meant to be a world class or national institution. It is the proponent's intent, however, that the National African-American Museum would not exist alone, but rather in cooperation with the Anacostia Museum, the National Afro-American Museum and Cultural Center at Wilberforce, the DuSable Museum, and other institutions devoted to the presentation and preservation of African-American history and culture.

#### AFRICAN-AMERICAN MUSEUM BUILDING

Some have argued that the story of African-Americans could be told in a wing of an existing Smithsonian facility or in a location other than on or near The Mall. The proponents believe that such a move would shortchange the extensive and extraordinary heritage of African-Americans. Relegating the African-American experience to a wing of an existing facility would not afford the African-American community the accord and acclaim it is due as a result of its rich heritage and contributions to the building of our great Nation. In addition, there are no Smithsonian facilities on The Mall

that would accommodate the volume of materials anticipated for the national and international center showcasing African-American history and culture.

The Smithsonian Institution's African-American Institutional Study recommended that the Arts and Industries Building, located at 900 Jefferson Drive SW, Washington, District of Columbia, be used to house the museum.

The Arts and Industries Building is the second oldest building on The Mall and is between the Hirshhorn Museum and the Smithsonian Castle. The building possesses 173,000 square feet, which makes it comparable in size to most mid-sized museums in this country. The choice of using an existing edifice over building a new museum not only preserves a historic building and will save millions-of-dollars, but will also allow the Smithsonian to respond more immediately to an under-represented and underserved audience.

#### AVAILABILITY OF COLLECTIONS AND THE ROLE OF THE NATIONAL MUSEUM AND EXISTING MUSEUMS

The proponents do not believe it is their or Congress' role to determine what should or should not be exhibited or collected by the National African-American Museum. We do encourage the Smithsonian Board of Regents and the National African-American Museum's Board of Trustees to consult with other African-American museums, historically black colleges and universities, cultural and other organizations supportive of the National African-American Museum.

There are many wonderful private museums, such as the previously mentioned DuSable Museum in Chicago, IL and the Dunham Foundation of Cultural Arts in Saint Louis, MO, that are dedicated to the preservation and presentation of African-American heritage. These museums contribute greatly to their communities, and should continue to do so. It is our vision the National African-American Museum would work in consultation and cooperation with existing appropriate institutions and organizations. For example, it would be appropriate for the National African-American Museum to work with the African-American Museum Association, the National Afro-American Museum and Cultural Center, and the Schomburg Center for Study of African American Life and History.

We often describe American culture as a multipatterned quilt, intertwined with many fabrics. A fundamental thread of the American fabric is the history, culture, and art of African-Americans. To a remarkable degree, the heritage of African-Americans is a unique and vital chronicle of something that is undeniably and fundamentally American, the pursuit of freedoms afforded to all in a democracy. We must complete the quilt and finish the loose ends. If we are to truly



educate Americans about our history and culture, and if we wish to present to the world an accurate picture of American heritage, we must showcase the African-American experience in a freestanding national museum.

I thank my colleagues again for their vote, and I look forward to swift action in the House of Representatives.

Mr. GARN. Mr. President, I take the floor to express my full support for S. 523. The bill would create the National African-American Museum and authorize planning for an extension of the National Air and Space Museum. Authorizing these two important entities within the Smithsonian complex, and including mechanisms to mitigate their impact on the Federal budget makes a great deal of sense. To delay cannot fail to drive up the costs of these needed facilities.

Title I of the measure, pertaining to the National African-Building at 900 Jefferson Drive as its home. At the very heart of the museums and visitor traffic on The Mall, this prime location has the further advantage of being immediately adjacent to the National Museum of African Art. The ability to put the Museum into an existing structure, which happens to be the historic first home of the U.S. National Museum, will greatly reduce the time required to open it to the public and the costs of its creation.

Establishment of the Museum will assist in addressing the crisis that exists in the collection and preservation of African-American patrimony. We risk losing important documents and objects if we do not make a major effort to alert the Nation to the value of many items whose historical significance has not been adequately recognized. The Museum, in particular, expects to focus its collections on material of the African diaspora; the 20th century's civil rights and labor movements; images of African-Americans in the media; and the art of contemporary African-Americans. It will, as well, engage in collecting in all historic periods.

The Museum also will work with museum organizations, communities, and individuals to preserve materials locally and to address collaboratively the needs of the field in doing so. To link that work and its own resources, the Smithsonian, through the Museum proposes to develop an African-American collections database so that information on collections and their location throughout the country would be available to museum curators and other researchers as they plan exhibitions and public educational programs.

Title II of S. 523 reflects the need of the Smithsonian to provide a replacement facility for the inadequate and outmoded structures near Suitland, MD. That facility currently houses the restoration laboratory, exhibition production and maintenance services, ar-

chives, and storage functions of the National Air and Space Museum, which cannot be stored in the Museum's existing building on The Mall. To meet these requirements, it is important to extend those functions at a nearby location while relying on nonappropriate sources of funding to a major extent.

On at least six occasions over the past 9 years, the Board of Regents of the Smithsonian Institution has recommended that an extension of the National Air and Space Museum be constructed at Washington Dulles International Airport so the Museum may continue to fulfill its historic mandate to "memorialize the national development of aviation and space flight \* \* \*." Twice before authorizing legislation has passed the Senate, only to fail in the House.

The existing National Air and Space Museum on The Mall is the most popular museum in the world. Its approval stems from the manner in which its artifacts, from the Wright Flyer to the Pioneer 10 spacecraft, are exhibited to the public, as well as from the fact that the American people are captivated by the idea of flight and space exploration.

The crucial matter of preserving a collection is the heart of any museum's function. In spite of the wonderful job that is currently being done, it is obvious that the present site of the museum's restoration and preservation activities, the Paul E. Garber Facility at Suitland, is totally inadequate for the existing collection, and absolutely unsuitable for the needs of the future.

The icons of air and space are large: The prototype Boeing 707—which introduced the commercial jet age, generated billions of dollars for U.S. workers and investors, and shrank the world—should be available as an example of our aviation heritage. But it is too large for The Mall Museum. The space shuttle *Enterprise*—which I was pleased to help obtain for the Smithsonian—should be available for close inspection. The speedy and mysterious SR-71 Blackbird is also awaiting exhibit space, as are other examples of our achievements. These machines are too large to be exhibited in the museum on The Mall; indeed, most of them cannot even be disassembled for transportation to The Mall. The Regents of the Smithsonian Institution believe the best location is at nearby Dulles International Airport.

I am aware that there are those who would like to disperse the Air and Space Museum to the many corners of the land, but I believe that bridge has already been crossed in the numerous studies within and without the Smithsonian Institution, and by the many decisions of the Board of Regents pursuant to its statutory authority. Under the accepted criteria the decisions always and unequivocally designated Dulles International Airport as the site

of the extension. I recognize that there is room for regional air and space museums, and I am committed to assist and foster these developments. But I believe there should be but one National Air and Space Museum, and that should be kept as compact and unified in display, administration, and support as possible.

The Smithsonian does not seek to expand museum activities through extensive new construction that would be costly in itself and would require the long-term commitment of increased levels of Federal program and operating funds. Locating the extension at Washington Dulles International Airport, where a number of its aircraft are stored, will permit the new facility to be managed as part of the existing Museum, thereby avoiding the costs of an additional administrative and support superstructure.

The Dulles location also will permit the Institution to take advantage of the very generous financial package offered by the Commonwealth of Virginia, which several years ago enacted bonding authority for the extension. While a modest increment of Federal funding may be required for the overall project, the Smithsonian expects to explore a variety of financing options, including fund-raising in the private sector, to complement the Virginia offer and ease Federal requirements for its support.

The extension will provide adequate space and modern systems that will enhance the Institution's capacity to enter into collaborative programs with other organizations and share the resources of the National Air and Space Museum with communities beyond the immediate Washington, DC area. Clearly, the utilization of emerging technologies is key to accelerating the distribution of information about the Museum's resources such as collections, exhibitions, and public programming, as well as to establishing real-time communications between organizations.

Mr. President, I ask that my colleagues approve S. 523 so that these important and thoughtful initiatives can proceed.

Mr. ROBB. Mr. President, I rise in support of S. 523. Senator SIMON's bill to authorize the establishment of a National African-American Memorial Museum within the Smithsonian. I do so for two reasons.

First, the construction of a museum dedicated to African-Americans is long overdue. Our African-American citizens have a unique relationship to this country and their history represents some of our Nation's greatest errors and most important struggles. The process of making this museum a reality should help us to further the process of healing and understanding.

Second, and more parochially, I am pleased that the Senate is again acting

to authorize the construction of an extension to the National Air and Space Museum at Dulles International Airport.

The Commonwealth of Virginia and I have been avid supporters of the Air and Space Museum extension at Dulles since the Smithsonian first broached the idea in 1983, while I was Governor. My friends and successors in that office, Jerry Baliles and Doug Wilder, have maintained the Commonwealth's commitment to the project.

The Dulles extension of the museum is a much needed addition to the Smithsonian's facilities. The wonders that are housed in the museum on the Mall are only a fraction of the dreams that can be housed in the extension. From the *Enola Gay* to the SR-71 to the shuttle *Enterprise*, there are simply too many remarkable items that are currently inaccessible to us because the museum on The Mall can't possibly accommodate all of them.

I would like to thank the Rules Committee for its assistance in moving this legislation again. And, personally, I am pleased that the Senate is acting on this legislation prior to our colleague Senator GARN's retirement and is including recognition of his commitment to the museum in the bill.

Again, I urge the Senate's wholehearted support of these two important museums; I hope that the House will act on this legislation quickly, and that the Congress will be spared consideration of this authorization again in the future.

Mr. McCAIN. Mr. President, I rise today to offer my strong support for S. 523, the National African-American Museum Act. While I am relatively new to this debate, the passage of this bill represents the culmination of many years of hard work on the part of many people both in and out of Congress. I am very proud to have had the opportunity to cosponsor and support this important effort.

Regrettably the history of minority groups in our Nation has not received the attention that it deserves. This has not been due to lack of achievement but because often their achievements have been overlooked. Our great Nation is comprised of many cultures, all of which have contributed greatly to our society. With the passage of S. 523, we have an opportunity today to fully recognize the many contributions of African-Americans to our Nation.

Museums play an important role in educating our society. This museum will serve to better educate all Americans as to the diversity and richness of our history. Lately, there has been an increased focus on race relations. I sincerely believe that racism prevails in an atmosphere where people are unaware of the contributions minorities have made to our society. While I am not so naive as to believe that this museum will end racism, I believe it offers

us a great opportunity to help dispel one of its root causes—ignorance.

In my statement before the committee I quoted Dr. Carter G. Woodson when he said "that History is being daily made, but it ceases to be history unless it is recorded and passed on to coming generations." This museum will ensure the words of Dr. Woodson were not in vain.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall it pass?

So the bill (S. 523), as amended, was passed as follows:

S. 523

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### TITLE I—NATIONAL AFRICAN AMERICAN MUSEUM

##### SEC. 101. SHORT TITLE.

This title may be cited as the "National African American Museum Act".

##### SEC. 102. FINDINGS.

(a) FINDINGS.—The Congress finds that—

(1) the presentation and preservation of African American life, art, history, and culture within the National Park System and other Federal entities is inadequate;

(2) the inadequate presentation and preservation of African American life, art, history, and culture seriously restricts the ability of the people of the United States, particularly African Americans, to understand themselves and their past;

(3) African American life, art, history, and culture includes the varied experiences of Africans in slavery and freedom and the continued struggles for full recognition of citizenship and treatment with human dignity;

(4) in enacting Public Law 99-511, the Congress encouraged support for the establishment of a commemorative structure within the National Park System, or on other Federal lands, dedicated to the promotion of understanding, knowledge, opportunity, and equality for all people;

(5) the establishment of a national museum and the conducting of interpretive and educational programs, dedicated to the heritage and culture of African Americans, will help to inspire and educate the people of the United States regarding the cultural legacy of African Americans and the contributions made by African Americans to the society of the United States; and

(6) the Smithsonian Institution operates 15 museums and galleries, a zoological park, and 5 major research facilities, none of which is a national institution devoted solely to African American life, art, history, or culture.

##### SEC. 103. ESTABLISHMENT OF THE NATIONAL AFRICAN AMERICAN MUSEUM.

(a) ESTABLISHMENT.—There is established within the Smithsonian Institution a Museum, which shall be known as the "National African American Museum".

(b) PURPOSE.—The purpose of the Museum is to provide—

(1) a center for scholarship relating to African American life, art, history, and culture;

(2) a location for permanent and temporary exhibits documenting African American life, art, history, and culture;

(3) a location for the collection and study of artifacts and documents relating to African American life, art, history, and culture;

(4) a location for public education programs relating to African American life, art, history, and culture; and

(5) a location for training of museum professionals and others in the arts, humanities, and sciences regarding museum practices related to African American life, art, history, and culture.

##### SEC. 104. LOCATION AND CONSTRUCTION OF THE NATIONAL AFRICAN AMERICAN MUSEUM.

The Board of Regents is authorized to plan, design, reconstruct, and renovate the Arts and Industries Building of the Smithsonian Institution to house the Museum.

##### SEC. 105. BOARD OF TRUSTEES OF MUSEUM.

(a) ESTABLISHMENT.—There is established in the Smithsonian Institution the Board of Trustees of the National African American Museum.

(b) COMPOSITION AND APPOINTMENT.—The Board of Trustees shall be composed of 23 members as follows:

(1) The Secretary of the Smithsonian Institution.

(2) An Assistant Secretary of the Smithsonian Institution, designated by the Board of Regents.

(3) Twenty-one individuals of diverse disciplines and geographical residence who are committed to the advancement of knowledge of African American art, history, and culture appointed by the Board of Regents, of which 9 members shall be from among individuals nominated by African American museums, historically black colleges and universities, and cultural or other organizations.

##### (c) TERMS.—

(1) IN GENERAL.—Except as provided in paragraph (2), members of the Board of Trustees shall be appointed for terms of 3 years. Members of the Board of Trustees may be reappointed.

(2) STAGGERED TERMS.—As designated by the Board of Regents at the time of initial appointments under paragraph (3) of subsection (a), the terms of 7 members shall expire at the end of 1 year, the terms of 7 members shall expire at the end of 2 years, and the terms of 7 members shall expire at the end of 3 years.

(d) VACANCIES.—A vacancy on the Board of Trustees shall not affect its powers and shall be filled in the manner in which the original appointment was made. Any member appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of the member was appointed shall be appointed for the remainder of the term.

(e) NONCOMPENSATION.—Except as provided in subsection (f), members of the Board of Trustees shall serve without pay.

(f) EXPENSES.—Members of the Board of Trustees shall receive per diem, travel, and transportation expenses for each day, including traveltime, during which they are engaged in the performance of the duties of the Board of Trustees in accordance with section 5703 of title 5, United States Code, with respect to employees serving intermittently in the Government service.

(g) CHAIRPERSON.—The Board of Trustees shall elect a chairperson by a majority vote of the members of the Board of Trustees.

(h) MEETINGS.—The Board of Trustees shall meet at the call of the chairperson or upon



the written request of a majority of its members, but shall meet not less than 2 times each year.

(i) **QUORUM.**—A majority of the Board of Trustees shall constitute a quorum for purposes of conducting business, but a lesser number may receive information on behalf of the Board of Trustees.

(j) **VOLUNTARY SERVICES.**—Notwithstanding section 1342 of title 31, United States Code, the chairperson of the Board of Trustees may accept for the Board of Trustees voluntary services provided by a member of the Board of Trustees.

#### **SEC. 106. DUTIES OF THE BOARD OF TRUSTEES OF THE MUSEUM.**

(a) **IN GENERAL.**—The Board of Trustees shall—

(1) recommend annual budgets for the Museum;

(2) consistent with the general policy established by the Board of Regents, have the sole authority to—

(A) loan, exchange, sell, or otherwise dispose of any part of the collections of the Museum, but only if the funds generated by such disposition are used for additions to the collections of the Museum or for additions to the endowment of the Museum;

(B) subject to the availability of funds and the provisions of annual budgets of the Museum, purchase, accept, borrow, or otherwise acquire artifacts and other property for addition to the collections of the Museum;

(C) establish policy with respect to the utilization of the collections of the Museum; and

(D) establish policy regarding programming, education, exhibitions, and research, with respect to the life and culture of African Americans, the role of African Americans in the history of the United States, and the contributions of African Americans to society;

(3) consistent with the general policy established by the Board of Regents, have authority to—

(A) provide for restoration, preservation, and maintenance of the collections of the Museum;

(B) solicit funds for the Museum and determine the purposes to which those funds shall be used;

(C) approve expenditures from the endowment of the Museum, or of income generated from the endowment, for any purpose of the Museum; and

(D) consult with, advise, and support the Director in the operation of the Museum;

(4) establish programs in cooperation with other African American museums, historically black colleges and universities, historical societies, educational institutions, cultural and other organizations for the education and promotion of understanding regarding African American life, art, history, and culture;

(5) support the efforts of other African American museums, historically black colleges and universities, and cultural and other organizations to educate and promote understanding regarding African American life, art, history, and culture, including—

(A) development of cooperative programs and exhibitions;

(B) identification, management, and care of collections;

(C) participation in the training of museum professionals; and

(D) creating opportunities for—

(i) research fellowships; and

(ii) professional and student internships;

(6) adopt bylaws to carry out the functions of the Board of Trustees; and

(7) report annually to the Board of Regents on the acquisition, disposition, and display of African American objects and artifacts and on other appropriate matters.

#### **SEC. 107. DIRECTOR AND STAFF.**

(a) **IN GENERAL.**—The Secretary of the Smithsonian Institution, in consultation with the Board of Trustees, shall appoint a Director who shall manage the Museum.

(b) **APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.**—The Secretary of the Smithsonian Institution may—

(1) appoint the Director and 5 employees under subsection (a), without regard to the provisions of title 5, United States Code, governing appointments in the competitive service; and

(2) fix the pay of the Director and such 5 employees, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

#### **SEC. 108. DEFINITIONS.**

For purposes of this title:

(1) The term "Board of Regents" means the Board of Regents of the Smithsonian Institution.

(2) The term "Board of Trustees" means the Board of Trustees of the National African American Museum established in section 105(a).

(3) The term "Museum" means the National African American Museum established under section 103(a).

(4) The term "Arts and Industries Building" means the building located on the Mall at 900 Jefferson Drive, S.W. in Washington, the District of Columbia.

#### **SEC. 109. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to carry out this title \$5,000,000 for fiscal year 1993 and such sums as may be necessary for each of the succeeding fiscal years.

### **TITLE II—EXTENSION OF THE NATIONAL AIR AND SPACE MUSEUM**

#### **SEC. 201. EXTENSION OF THE NATIONAL AIR AND SPACE MUSEUM.**

The Board of Regents of the Smithsonian Institution is authorized to plan and design an extension of the National Air and Space Museum at Washington Dulles International Airport.

#### **SEC. 202. AUTHORIZATION OF APPROPRIATIONS.**

Effective October 1, 1992, there is authorized to be appropriated to the Board of Regents of the Smithsonian Institution \$9,000,000 to carry out the purposes of this title.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The title was amended so as to read "A bill to authorize the establishment of the National African-American Museum within the Smithsonian Institution".

Mr. WARNER. Mr. President, I would like to further say with respect to the matter just passed by the Senate that many, many Senators worked on various portions of this bill. First, of course, Senator SIMON took the lead with respect to the African-American Museum, as well as other Members of the body.

The Air and Space Museum at Dulles was a dream that was really, in many

respects, conceived by our former colleague, the Senator from Arizona, Senator Goldwater. He and I worked on this together with Senator GARN and others for many years. As a matter of fact, I think the Senator has passed this particular piece of legislation, I know of four times. I think this is the fourth time. And each time, for reasons which I suppose are clear to some, it did not go through the House.

I hope as a challenge to Members of the House, particularly those of the Virginia delegation, this bill will be passed this year, because not only is it very important that we have the authority to proceed with this historic museum honoring black Americans on the mall incorporated with the Smithsonian, but also to move forward with the Air and Space Museum.

There are many artifacts going way back in the history of aviation stored in various places all over the United States and weather and Father Time are taking their toll. I am hoping we can get underway with this edifice again which will memorialize the work of many, many persons as relates to our aviation history.

Mr. D'AMATO. Mr. President, I ask unanimous consent that I be permitted to speak up to 5 minutes as in morning business and the time continue to run against the 30 hours.

The PRESIDING OFFICER. Without objection, it is so ordered.

### **THE CIRCUMVENTION PROVISION IN THE TAX BILL**

Mr. D'AMATO. Mr. President, for a number of years, we have seen American companies at time disadvantaged by unfair practices. Courts have made rulings and have said that the practices that have been utilized by foreign competition have been unfair. Notwithstanding that, we have seen a pattern of activity called circumvention, which has thwarted the enforcement of these court orders. I am not going to be more specific than to say that this has had devastating consequences throughout the country and that there is a constituency within the State of New York.

Both the senior Senator, Senator MOYNIHAN, and myself have come to recognize that we will be terribly disadvantaged unless we are permitted to seek legislative relief. We have been able to come to a point where the administration and others who have heretofore been reluctant have agreed not to oppose, because of the narrowness in which the legislation has been crafted, to deal with the problems in the circumvention and the illegal dumping, as it has adversely impacted on this one company.

We are talking about a number of jobs, lots of jobs, that will be lost. We are talking about giving an opportunity and we do not for sure know

that it will take place, but an opportunity for peoples' lives to be saved and for them to be able to keep their jobs.

Now we have the two tax committees in conference. The provision that I mentioned, one sponsored by Senator MOYNIHAN and myself, was in the Senate version. The conferees are meeting, and we know what conferences are about. Most, if not all, of the work at times is undertaken by staff and they are dedicated staff and they are good, they are competent and they are professional. I have been given to believe that staff has dropped out this provision. That is staff.

I am going to suggest that as important as this bill is to lots of Americans, I am not going to back down at this point in time unless that provision is included, and there is no justification for it not to be included because it does not cost this country one penny and it saves American jobs. This Senator will avail himself of every legal, parliamentary maneuver to see to it that we have a full discussion before that bill is closed out and before we go home and before we just turn our backs on the last chance that these workers might have to retain their jobs. It is a chance but, by gosh, I think we owe it to them.

So I say to my colleagues who are working on this bill, make no mistake about it, this Senator will not be dissuaded because of the final hours or because, after all, we will not get a bill unless this provision is included. I will take to the floor and maintain whatever rights I have to protect the interests of these people, which both the senior Senator, my distinguished colleague and friend, Senator MOYNIHAN, and I have labored to bring about.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I rise to associate myself with the gravity of the issue that my friend and colleague raises. We are speaking—we should be specific—of the situation of the Smith Corona manufacturing facilities in Cortland County, NY. It is not hard to keep them in mind. They are the last place in the United States where the automatic portable typewriter is made, one plant in the United States.

It is being systematically driven out of business by a Japanese firm which can turn you into one of those persons who really do feel that there is a raging and altogether unethical competition between our two countries taking place.

This plant turns out a very fine product. It had been completely redesigned about 8 years ago, as I recall. Immediately, this Japanese firm began dumping a competitive product, clearly priced below cost of manufacture, designed to eliminate the last such firm in this country, after which there is a monopoly available to the Japanese.

The Commerce Department did impose antidumping fees, where upon a very slight modification was made in the Japanese model and the dumping resumed. It there is no more clear example of predatory trade practice. I learned antidumping laws from Harry Hawkins who did the reciprocal trade agreements with Cordell Hull. I am not new to this one subject on trade. I know it. It is exactly what the 1930 legislation was designed to get rid of in the world. It is shameless.

My colleague from New York has brought this up with the administration. I understand the administration will support this measure.

Mr. D'AMATO. That is correct. The administration will not oppose this.

Mr. MOYNIHAN. They will not oppose it. It has been very narrowly drafted, carefully so and it ought to be included, and I hope it will be. I associate myself with that view.

Mr. D'AMATO. I thank my colleague.

Mr. MOYNIHAN. I thank my colleague.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, as with most issues in the United States, there are always two sides to the issue. I respect greatly both my colleagues from New York and I think that they have been tenacious on this issue.

The other side of the issue relates to the extent to which we are really making a significant change in law after the fact. The company in question did make a petition and the law ruled against them. It related to where component parts derived, whether they came from the country of origin or from third or fourth countries. And the law says country of origin.

Under the reading of the law, the company involved did not prevail. This is an attempt after the decision has been rendered to redefine the basis for a decision so that it would apply to not only the country of origin in which the good was derived but that it would apply to third parties as well. This is a fair disagreement.

I did not know this debate was coming up. I happened to be walking through the Senate when I heard my distinguished colleagues from New York speaking about this.

I know it is important to their State that it come out the way that the amendment in the bill anticipates. The amendment is primarily directed at one company, and the flip side is that it would disadvantage companies in my State and in the State of Tennessee, and that of course is why I would oppose the amendment and hope that the conference would drop the amendment.

We each have our interests to represent, and that is what I try to do here. I do not think it is wise, after the fact, to change the basis for decision that would apply primarily to one com-

pany, and I thank the Chair and I thank my distinguished colleagues from New York.

Mr. MOYNIHAN addressed the Chair. The PRESIDING OFFICER (Mr. WELLSTONE). The Senator from New York.

Mr. MOYNIHAN. Let me thank—I am sure Senator D'AMATO would join me—our colleague from New Jersey, Senator BRADLEY, for the thoughtful and moderate tone in which he spoke.

I would simply say, not in reply but simply an extension of my remarks, that American trade policy has a lot at stake in this issue. It is such an unexampled instance of predatory trade practice. I have not seen—I use the word shameless. Nothing will stop this Japanese firm from violating the clear intent of our laws. In the end, the manufacturer has decided to close his American operation and move to Mexico. And that is not what we need as we move toward a North American Free-Trade Agreement.

The simple fact is there is symbolism here.

The typewriter was invented in the United States, a simple machine, a great 19th century machine, put together not very scientifically. You can spell the word "typewriter" on the top row of keys and the salesmen could exhibit it that way.

Syracuse was the center of the manufacturing in the Nation. It dropped down to this town in Cortland nearby. There is only one plant in the United States that makes portable typewriters. It is about to be closed and sent to Mexico because of Japanese practices which are indefensible, in my view. And I tend to be on the soft side of that argument, again having learned it all from Harry Hawkins, who was Cordell Hull's assistant in this matter.

But in this case make no mistake. I think those who look to an expanding trade system ought to look to this measure. The American people would not understand it if we do not enact it.

Mr. President, I yield the floor.

#### UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I have a unanimous-consent request which has been cleared on both sides. I ask unanimous consent that when the majority leader moves to proceed to the consideration of the conference report to accompany H.R. 776, the Comprehensive Energy Policy Act, the Senate vote on the motion to proceed without any intervening motion or debate.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, I ask unanimous consent that I might pro-



ceed for 5 minutes as though in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### GEORGE BRETT'S 3,000TH BASE HIT

Mr. DANFORTH. Mr. President, Wednesday night a great man accomplished a great milestone. George Brett, the star third and first baseman for the Kansas City Royals for the last 20 years, drove a single to right field for his 3,000th base hit, a crowning achievement to a glorious career.

Brett's accomplishments as a baseball player are many and varied, but he will probably be best remembered for his remarkable ability to come through in the clutch. How many times have Kansas Citians been comforted by the knowledge that at a key point in a Royals game, George Brett was coming to bat. Who can forget Brett's eighth inning, three-run home run in the fifth game of the 1976 playoffs against the Yankees to tie the score. Or his three home runs in one game off Catfish Hunter in the 1978 playoffs. Or what might be the greatest hit in Kansas City Royals history, when Brett, in the seventh inning of the third game of the 1980 playoffs, blasted a three-run home run into the upper deck of Yankee Stadium off Rich Gossage, icing Kansas City's first American League championship. That year, Brett captivated baseball fans everywhere by batting .390. Who can forget Brett leading the Royals to a World Series championship in 1985, single-handedly staving off defeat against Toronto in the third game of the playoffs by hitting two home runs after hitting .335 with 30 home runs in the regular season.

In these clutch moments and throughout his career, Brett has exemplified what all of us strive for in our professional lives—intense focus, tremendous skill, supreme confidence, great effort, and excellent sportsmanship. Watching Brett turn a double into a triple, steal a base, slide hard into second base to break up a double play, make a diving stop at third base, or run out even the most routine ground out, is watching baseball in its purest form. It's what makes all of us dream of becoming baseball players.

Brett's professional accomplishments are only part of his legacy. Even since he joined the Kansas City community, Brett has proven himself to be one of its most outstanding citizens. Brett has been involved in dozens of community service activities. It is fitting, and not surprising, that Brett wanted to find a way to combine his commitment to helping people with his drive towards 3,000 hits. Brett donated the baseballs from his 2,975th hit through his 2,997th hit to the Keith Worthington Chapter of the ALS Association for auction to the highest bidder. Both on and off the field, Brett has exemplified

the Kansas City ideals of excellence and pride in community.

It is easy to understand why Brett is one of the most popular sports figures of our day, one of the most revered members of the Kansas City community, and one of the Midwest region's great representatives to the country.

Mr. DANFORTH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### MOTION TO PROCEED TO S. 2899

Mr. MITCHELL. Mr. President, I ask unanimous consent that the motion to proceed to S. 2899 be deemed agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### SCHEDULE

Mr. MITCHELL. Mr. President and Members of the Senate, the Senate today has completed action on the Labor-HHS appropriations conference report, the Department of Defense authorization conference report, and has adopted the motion to proceed to the National Institutes of Health reauthorization bill.

We have also obtained an agreement that will permit us to proceed directly to a vote on the motion to proceed to the energy conference report when that is received in the Senate on Monday.

Accordingly, there will be no further rollcall votes today. It will not be necessary for the Senate to be in session on tomorrow.

The Senate will reconvene on Monday morning, and there will be a long and very busy day on Monday. Senators are hereby placed on notice of that fact.

The Senate will vote on the cable TV override at 6 p.m. on Monday. Prior to that, the Senate will consider and enact: the legislative appropriations conference report, the Department of Defense appropriations conference report, the foreign operations appropriations conference report, and I am not able to state at this time whether rollcall votes will be necessary. I hope they will not be, but that remains for each Member of the Senate to decide on Monday. Therefore, rollcall votes are possible throughout the day, and Senators should be placed on notice of that fact because we have to complete action on these measures on Monday.

In addition, on Monday we expect to receive from the House the Energy conference report and the urban aid tax bill conference report and the urban aid tax bill conference report, and it is

my hope that we can at least begin proceedings on those measures; although I am advised that opposition to the energy bill may require the filing of a cloture motion on that measure.

There will be other measures that the Senate will be considering on what I hope will be either the final day or a day very close to the final day.

I thank the distinguished Republican leader for his cooperation, and I now yield to him for any questions or comments he wishes to make.

Mr. DOLE. Mr. President, I think the majority leader has outlined what we have remaining. On this side, I am advised that depending on what may or may not be in the urban aid tax bill, there could be an effort on this side not to let that conference report come to a final vote.

So we have not seen what I understand may be an almost completed conference report, or the suggestions by the two chairmen, of House Ways and Means Committee and the Finance Committee. I have had a number of inquiries, and they are indicating no time agreements on the conference report until everybody has had a chance to study it thoroughly.

Otherwise, I think it will be a busy day on Monday, but it is possible, in my view, hopefully, to conclude everything by Tuesday noon of next week.

Mr. MITCHELL. This may be one of those rare occasions when I am more hopeful than the Republican leader. I am shooting for Monday night, barring the necessity for cloture votes thereafter.

If they are required, of course, then it would not be possible to complete action at that time. But we have made significant progress toward that objective, and I expect that we will continue that progress on Monday.

Mr. President, I yield the floor.

#### DEFENSE AUTHORIZATION BILL

Mr. DOLE. Mr. President, I want to take just a minute to thank the ranking Republican of the Senate Armed Services Committee, Senator WARNER, for the tremendous service he has given to the committee, the Senate, and to our Nation.

Today, our military stands as the finest fighting force ever assembled. They are the best trained and best equipped military in the world. America is more secure—the world is a safer place—than any time in recent history.

This is the legacy that Senator WARNER leaves as he departs the committee as its ranking member. Our Nation owes Senator WARNER a sincere debt of gratitude for his dedication, hard work, and commitment to peace through strength. The victory over Communism is, in many ways, his victory. Let me also extend my sincere appreciation to Pat Tucker, minority staff director, Les Brownlee, deputy staff director,

Ken Johnson, Skip Ringo, Ann Sauer, Ron Kelly, Gary Sojka, George Lauffer, John Etherton and other members of Senator WARNER's excellent staff who have done the tough jobs that have made these important bills possible. The Nation is grateful for your service and more secure today because of your effort and dedication.

Mr. FORD. I ask unanimous consent that we may proceed in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MORNING BUSINESS

### OUTPATIENT PRESCRIPTION DRUGS FOR MEDICARE BENEFICIARIES

Mr. RIEGLE. Mr. President, I rise today to address a growing health care crisis among senior and disabled Americans enrolled in Medicare. Many Medicare beneficiaries take daily or periodic prescription drugs for conditions like heart disease, high blood pressure, arthritis, and osteoporosis but lack access to affordable outpatient prescription drugs. Since more people are living longer and surviving long-term, chronic illness more frequently, the need for high quality, reasonably priced prescription drugs among our older and disabled population is increasing as well. Advances in pharmaceutical research and development have resulted in patients being treated in a less invasive manner, with shorter hospital stays and quicker recovery time. But many Medicare beneficiaries have limited access to these often more cost-effective treatments.

#### NEED FOR NEW OUTPATIENT PRESCRIPTION DRUG BENEFIT

Part A of the Federal Government's Medicare Program pays for drugs when they are associated within patient hospital stays. Medicare part B pays for physician services, but generally does not provide coverage for self-administered prescription drugs. About 75 percent of older Medicare beneficiaries have private insurance coverage supplementing Medicare but often still do not have good coverage of their out-of-pocket drug costs. And only very low-income elderly and disabled persons have drug coverage through Medicaid.

According to the American Association of Retired Persons [AARP], almost two-thirds of people over 65 pay for drugs out of their own pocket, spending an average of over \$270 per year on prescriptions. The average senior citizen needs about 15 prescriptions per year. In 1992, it is estimated that one-third of seniors will spend over \$650 per year for their prescription drugs, and one in five seniors will spend over \$1,000 per year for their prescription drugs. Based on this compelling need, it comes as no

surprise that a recent AARP report showed that 90 percent of Americans, age 45 and older, believe the Government should provide prescription drugs at low cost to older Americans.

Persons with disabilities also need access to affordable prescription drugs. Medicare provides health care coverage for about 3 million beneficiaries under age 65 who are disabled. On average, disabled beneficiaries under age 65 obtained 22 prescriptions and incurred \$405 in associated costs.

The AARP survey also found that more than 70 percent of Americans support the concept of expanding the Medicare Program to cover the cost of outpatient prescriptions.

Although the Medicare population's use of outpatient prescription drugs has increased by an average of 4 percent per year from 1980 to 1987, the cost of these prescriptions has increased by an average of 16 percent each year per prescription. A recent study by the Families USA Foundation supports the conclusion that drug companies are raising prices many times faster than the number of prescriptions dispensed. In addition, a report by the Senate Special Committee on Aging, chaired by my colleague, Senator PRYOR, finds that without cost containment, total U.S. spending on pharmaceuticals is expected to increase from \$67 billion in 1990 to \$145 billion by the year 2000.

In 1988, Congress attempted to limit the financial burden that Medicare beneficiaries face from out-of-pocket drug spending in the Medicare Catastrophic Coverage Act. Many considered the drug benefit the single most important benefit of that bill. Unfortunately, this crucial benefit was revoked only 1 year later with the repeal of the 1988 act.

#### LEGISLATIVE PLANS FOR THE 103D CONGRESS

We can no longer expect Medicare beneficiaries to continue to absorb spiraling cost inflation of prescription drugs out of their own limited budgets. In Michigan, more than 1.2 million persons are covered through Medicare; nationwide, we have more than 33 million. That is why today I am putting in the RECORD a proposal to create a benefit under Medicare to provide coverage for outpatient prescription drugs. I ask unanimous consent that an outline of the plan immediately follow my remarks.

Mr. President, I intend to introduce a bill to establish a outpatient drug benefit under Medicare as soon as possible after the start of the 103d Congress. Because of the complex problems associated with developing a meaningful benefit while at the same time controlling prescription drug cost inflation, I will use the time from now until the start of the next Congress to work with my colleagues and members of the beneficiary and pharmaceutical manufacturing communities to develop a final plan.

My objective with this plan is to improve access to affordable prescription drugs for Medicare beneficiaries, while at the same time ensuring that pharmaceutical manufacturers will continue to invest in new, innovative, and cost-effective drugs to treat the unique therapeutic needs of Medicare population. We need to control drug spending for this population and at the same time be aware of the changing demographics of the population. And we need quality assurance to assure that pharmaceuticals are used appropriately and that new drugs are incorporated into the benefit rationally.

One lesson we have learned from our experience with the Catastrophic Coverage Act is that making drugs affordable must be part of any prescription drug benefit. The structure of the benefit will depend greatly upon the effectiveness of the cost controls.

#### PROPOSAL FOR OUTPATIENT MEDICARE DRUG BENEFIT

My plan would provide coverage for FDA-approved outpatient prescription pharmaceuticals, biologicals, and insulin to all Medicare beneficiaries under Medicare part B. Cost containment mechanisms would ensure that the price of drugs purchased by Medicare beneficiaries accurately reflects both the cost of research and development of the product and the need for an economical pricing policy. Reasonable annual deductible and copayment levels would be determined by a variety of factors including the total cost of the new benefit and the new benefit and the effectiveness of the cost controls.

Making drugs more affordable is a critical objective of my plan. In my proposal, I outline several options for making drugs affordable. In developing these options, I considered the aggregate purchasing power of Medicare beneficiaries, especially in the area of establishing the payment rates for covered drugs. An independent board of health care experts, in consultation with the Secretary, would be established to develop the plan for determining the payment rates and would consider several different alternatives specified in the outline for this. This proposal would also reduce drug costs and maintain the highest quality of care by encouraging the use of generic substitute drugs whenever possible and by implementing a program for drug utilization review [DUR].

Funding for the benefit would be held in a separate account within the supplemental medical insurance trust fund to enable the Secretary and the Board to monitor expenditures for this sector of the health care economy.

I encourage my colleagues to take a close look at this proposal. I know they have heard, as I have, from countless constituents about the tremendous financial burden of keeping up with out-of-pocket prescription drug spending places on them. I am sure they have



heard from individuals on fixed incomes, many of whom rely on daily doses of lifesaving drugs, that spending for these prescriptions is eating up a larger and larger chunk of their monthly budget. I believe the answer to their concerns is an outpatient prescription drug benefit under Medicare. I also urge Medicare beneficiaries and organizations who represent them, as well as providers and manufacturers, to review the proposal and provide us with their views on the bill.

Mr. President, I look forward to working with my colleagues during the 103d Congress to bring this proposal to its fruition.

There being no objection, the outline was ordered to be printed in the RECORD as follows:

#### MEDICARE OUTPATIENT PRESCRIPTION DRUG BENEFIT PROPOSAL

##### I. COVERED OUTPATIENT DRUGS

Create new benefit under Medicare Part B to cover drugs that are:

- (1) Dispensed upon prescription;
- (2) Approved for safety and efficacy by the Food and Drug Administration;
- (3) Biological products licensed under the Public Health Service Act;
- (4) Identical to drugs used or sold prior to the 1962 Drug Amendments;
- (5) "DESI" drugs for which the Secretary has not issued notice of a hearing;
- (6) Certain intravenous drugs provided in the home with the establishment of quality standards for providers.
- (7) New and innovative drugs may be added to the list of covered drugs through a process developed by the prescription Drug Expenditure Board (described in section III), involving utilization review, economic justification studies and technology assessment to facilitate the adoption of innovations at the earliest possible time. This will include certain experimental drugs which are associated with peer-reviewed and approved protocols conducted in connection with peer-reviewed and approved research programs.

##### II. DEDUCTIBLE AND COPAYMENT

A. No payment would be made for services covered under this provision until an annual deductible has been met, except for immunosuppressive drug therapy for one year immediately following transplant surgery, since these therapies are already covered under Medicare Part A. Annual deductible is to be determined.

B. Beneficiary other cost-sharing, including copayments, are to be determined.

##### III. DRUG AFFORDABILITY

A. Establish a Prescription Drug Expenditure Board to develop appropriate methods to lower costs and assure access to affordable drugs and continued research and innovation. The Board, in consultation with the Secretary, would be required to establish a process for to determining reasonable payment rates for covered drugs taking into consideration the aggregate purchasing power of Medicare beneficiaries.

The Board would also specifically monitor drug spending using information from the separate account established in the SMI trust fund and make recommendations on annual spending goals and appropriate accounting procedures, including the need for contingency funds. The Board would also review and report to Congress on increases in prescription drug prices, utilization of drugs

by the Medicare population, administrative cost resulting from drug coverage and other ways to control all drug costs under Medicare, including drugs currently covered under Medicare.

The Director of the Congressional Office of Technology Assessment shall provide for the appointment of a Prescription Drug Expenditure Board to be composed of individuals with expertise in the provision and financing of covered drugs. The Board will consist of 11 individuals, serving 3 year terms, who are recognized experts in the fields of health care economics, medicine, pharmacology, pharmacy, and prescription drug reimbursement, as well as at least one individual who is a Medicare beneficiary.

Among the options considered for establishing reasonable payment rates for covered drugs, the Board would consider:

Option (1) Program payments set at 80 percent of the lesser of the actual charge for the drug and a payment limit. The payment limit would vary depending upon whether the drug is single source or multiple source.

The payment limit for single source drugs, and for multiple source drugs with restrictive prescriptions, would be the lesser of: (1) the 90th percentile of actual charges for the drug within a geographic area, and

(2) the sum of an administrative allowance plus the average wholesale price. The administrative allowance would be \$5 per prescription if the drug is provided by a participating pharmacy, and \$3 if provided by a non-participating pharmacy.

In the case of multiple source drug without a restrictive prescription, the payment limit would be the administrative allowance plus the median of the average wholesale prices for the drug.

The Secretary would conduct certain surveys to determine the average wholesale prices of both single and multiple source drugs.

The administrative allowance would be updated annually by the implicit price deflator for the gross national product. The Secretary would be permitted to reduce the administrative allowance for drugs dispensed through a mail service pharmacy.

The Secretary would publish a list of comparative wholesale prices of commonly prescribed outpatient drugs, and distribute the list to hospitals, physicians, Social Security offices, senior citizen centers and appropriate places. (This option is modeled after the drug benefit in the Catastrophic Coverage Act of 1988.)

Option (2) The program would attempt to negotiate acquisition cost allowances with manufacturers that meet federal criteria for prices. Those with negotiated prices would be participating manufacturers, with their products fully recognized by the program with no balance billing for patients whether or not the deductible is met.

For products of nonparticipating manufacturers for which over half of sales are not to beneficiaries of federal programs, the estimated average acquisition cost would be set on the basis of actual transaction prices (e.g. as determined by marketing research firms). Otherwise the acquisition cost allowance will be based on the average cost in the last year before passage of the program, increased by the CPI.

Participating manufacturers would have to agree to the prices that meet federal criteria on all products covered by all federally supported prescription programs.

The products of non-participating manufacturers would be covered only in circumstances in which the drug offers substan-

tial unique therapeutical advantages according to criteria set by the Secretary. Approvals may be according to protocols or may be on an individual patient basis.

Payment made to pharmacists on the basis of (i) a designated acquisition cost set in advance for each drug calendar year and (ii) a pharmacist fee.

Networks of participating pharmacies would be selected through a competitive bidding process based on criteria that included access, other routine services (such as record keeping, waiting times, hours of operation, including at least one 24-hour pharmacy in each medical service area, etc.), administrative assistance (e.g. providing preprinted labels and other information) and pharmacy fee.

Option (3) Develop other ways to convene negotiations between appropriate parties—manufacturers, beneficiaries and providers—to determine payment rates for covered drugs; or any other mechanisms that the Board deems appropriate.

B. Require the Secretary to implement a Drug Utilization Review (DUR) Program for covered drugs which insures that:

- (1) Covered prescriptions are appropriate;
- (2) Medically necessary;
- (3) Not likely to result in adverse health outcomes;

The program would be designed to educate physicians and pharmacists to identify and reduce the frequency of patterns of fraud, abuse, gross overuse, or inappropriate or medically unnecessary care, among physicians, pharmacists and patients, or associated with specific drugs or groups of drugs, as well as potential and actual severe adverse reactions to drugs. The DUR program, including prospective and retrospective drug review, would be modeled after the DUR program of the Medicaid Drug Rebate amendments of 1990, section 1927 of the Social Security Act.

C. Encouraging generic substitution by allowing pharmacists to make substitutions, after consultation with the beneficiary, unless the doctor specifically indicates on the prescription that generic substitution is not allowed.

##### IV. ENROLLMENT

A. Current Part B beneficiaries would be enrolled on a voluntary basis, with a Part B penalty applying for each year they delay enrollment. The penalty would be 10% of the additional premium cost of the drug benefit portion of the premium for each year the beneficiary is not enrolled.

B. Drug benefit would be a standard Part B benefit for new enrollees.

##### V. PARTICIPATING PHARMACIES

A. Secretary would establish a participating pharmacy program, where pharmacies agree annually to:

- (1) Accept assignment for all Medicare claims;
- (2) Provide beneficiaries with information on drugs;
- (3) Keep records the Secretary deems appropriate;
- (4) Advise beneficiaries on the availability of generic substitute drugs;
- (5) Submit claims electronically utilizing equipment and technical assistance provided by the Secretary.

B. Establish civil money penalties for pharmacies which voluntarily violate terms of this participation agreement.

##### VI. USE OF CARRIERS, FISCAL INTERMEDIARIES, AND OTHER ENTITIES IN ADMINISTRATION

A. Authorize use of contracted entities, carriers or fiscal intermediaries to

- (1) Process claims for covered drugs;
- (2) Provide pharmacies with information on whether an individual beneficiary has met their deductible;
- (3) Use an electronic claims processing system;
- (4) Pay claims within a specified time limit.

#### VII. STANDARD CLAIM FORM

Require the Secretary to develop and distribute a standardized claim form for covered drugs and for electronic billing.

#### VIII. COORDINATION WITH EXISTING PROGRAMS

A. Provide for coordination of covered outpatient drug benefit with contracted Health maintenance organizations (HMO's).

B. Require the Secretary to develop, in consultation with the National Association of Insurance Commissioners (NAIC), revisions to NAIC's minimum benefit requirements and model standards for supplemental Medicare insurance ("Medigap") plans to incorporate appropriate coverage in light of this new benefit and develop appropriate transition requirements.

#### IX. PREMIUMS

A. The Part B premiums would, as under current law, be set at 25% of the costs of the program. Amounts collected for this benefit will be placed in a new, separate, drug benefit account within the Supplemental Medical Insurance (SMI) Trust Fund. Payments for benefits would be administered through the SMI Trust Fund.

#### X. FINANCING

A. The provision will be fully financed, as required, on a pay-as-you-go basis, but the proposal as written does not specify a financing mechanism necessary to cover the full cost of implementing such a program. Part of the financing of the plan may be from a manufacturers rebate program for drugs currently being covered under Medicare.

### A TRIBUTE TO DR. BARBARA MCCLINTOCK

Mr. MOYNIHAN. Mr. President, I rise today in tribute to one of the world's leading geneticists, Dr. Barbara McClintock, who died September 4 at 90 years of age. I am proud to note that Dr. McClintock spent most of those 90 years in the great State of New York, contributing mightily to the world's understanding of genetics. Most of us are fortunate to make one major contribution in our lives. Dr. McClintock made two. The first was her development of staining and microscopic techniques in the 1930's that enabled her to demonstrate how chromosomes recombine during reproduction to create new combinations of genes. She was immediately honored for that work.

Her second, and most important contribution, was observing that genes are not inherited simply, like beads on a string, but that some jump from site to site. At the time of her discovery, the work was not understood. In fact it was ignored, much like Gregor Mendel's work with peas was ignored for 40 years until the world was ready to understand. We now know that jumping genes, and other movable genetic elements, are important for normal development and immune system function-

ing. When these movements occur incorrectly they can result in genetic diseases, such as cancer.

Dr. McClintock's conclusions in the 1940's were based on the patterns of color in corn kernels, and how they changed from one generation to the next. In fact, it was only after completely new models for understanding genetics came about with the revolution in molecular biology in the 1970's that the work became intellectually accessible to a wider group of scientists. Like many people throughout history whose work is ahead of its time, Dr. McClintock's work was ignored, even reviled. But she persevered, working alone at the Cold Spring Harbor Laboratory in Cold Spring Harbor, NY, which provided support for her work over five decades, even when the work was unpopular.

Dr. McClintock garnered honors and prizes throughout her long career. She was elected as a member of the National Academy of Sciences in 1944. Only the third woman to be elected to the National Academy of Sciences. In 1945 she was elected president of the Genetics Society of America, and received the National Medal of Science in 1970. However, it was not until the early 1980's that the world properly recognized her unique contributions. When the biologists of the 1970's provided molecular evidence for her pioneering findings, Dr. McClintock was honored with the first MacArthur Laureate Award, \$60,000 a year for life, in 1981, and a Nobel Prize in Physiology and Medicine in 1983. In many ways the geneticists were relieved that experimental techniques had evolved to the point they were able to understand the significance of Dr. McClintock's work. They knew there was something to it; they just did not know what.

In 1982 a book was written about Dr. McClintock by Evelyn Fox Keller. It is titled "A Feeling for the Organism: The Life and Work of Barbara McClintock." I recommend it as reading material to my colleagues and especially to students who would be scientists. Dr. McClintock's philosophy was that there is a need to look at scientific problems with fresh eyes, to approach questions from nonconventional as well as conventional ways, and above all to look for and appreciate the subtleties and complexities of life.

As J.R.S. Fincham notes in a recent issue of *Nature*, Dr. McClintock's "solitary style of work, total independence of thought and extraordinary record of getting things right have elevated her to the status of prophet in the eyes of some." Dr. McClintock never gave up. She continued to work at her laboratory at Cold Spring Harbor Laboratories until 4 months before her death, putting in 7-day weeks, sometimes 16 hours a day. The world has lost what the *New York Times* calls "A Top Geneticist of (the) Century." Although

saddened by her loss, we should be grateful for her accomplishments and for the fact that Dr. McClintock lived to see her work appreciated.

Mr. President, I ask unanimous consent that the September 4 *New York Times* obituary about Dr. Barbara McClintock be printed in the CONGRESSIONAL RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the *New York Times*, Sept. 4, 1992]

DR. BARBARA MCCLINTOCK, 90, GENE RESEARCH PIONEER, DIES

(By Gina Kolata)

Dr. Barbara McClintock, one of the most influential geneticists of the century, died on Wednesday night at Huntington Hospital on Long Island. She was 90 years old and lived nearby at the Cold Spring Harbor Laboratory, where she had conducted research for more than 50 years.

She died of natural causes, said Lisa Gentry, a spokeswoman for the lab.

Dr. McClintock had an uncanny ability to understand the nature of genes and how they interact decades before biologists discovered the molecular tools to dissect genetic material. Working with corn all her life, she is best known for her discovery that fragments of genetic material move among chromosomes, regulating the way genes control cells' growth and development.

In the 1930's, she was a discoverer of the fact that chromosomes break and recombine to create genetic changes in a process known as crossing over, a discovery that explained puzzling patterns of inheritance. She also discovered a structure called the nucleolar organizer of the chromosome, which seemed to order the genetic material during cell division, a finding that was not explained by molecular biologists for another three decades.

Modern genetics has known no figure quite like Dr. McClintock, who worked alone and chose not to publish some of her revolutionary observations for years, explaining later that she thought no one would accept the findings. She never gave lectures, as most scientists do to build their careers. Instead, until her last days, she worked in her laboratory at Cold Spring Harbor 12 hours a day, six days a week. Until 1986, she did not have a telephone, requesting that anyone who wanted to talk to her write a letter instead.

Dr. McClintock's findings were so profound that she garnered honors and prizes throughout her long career, including membership in the National Academy of Sciences in 1944, president of the Genetics Society in 1945, the National Medal of Science in 1970, the first MacArthur Laureate Award, for \$60,000 a year for life, in 1981, and a Nobel Prize in Physiology or Medicine in 1983.

#### 'GIANT FIGURE' IN GENETICS

She was the first woman to win an unshared Nobel Prize in that category and the third woman to win an unshared Nobel science prize. The first was Marie Curie in 1911 and the second was Dorothy C. Hodgkin in 1964, both for chemistry.

"She was a giant figure in the history of genetics," said Dr. James Shapiro of the University of Chicago. "I think she is the most important figure there is in biology in general."

Dr. James Watson, director of the Cold Spring Harbor Laboratory and codiscoverer of the structure of DNA, the chemical that



makes up genes, said Dr. McClintock was one of the three most important figures in the history of genetics, one of "the three M's," he said. The other two, Gregor Mendel and Thomas Hunt Morgan, lived in the 19th and early 20th centuries and laid the groundwork for notions of inheritance.

J. R. S. Fincham of Edinburgh, Scotland, writing in the Aug. 20 issue of *Nature*, a British science journal, said that Dr. McClintock's "solitary style of work, total independence of thought and extraordinary record of getting things right have elevated her to the status of a prophet in the eyes of some."

Dr. McClintock spent her professional life working on corn, using the telltale patterns of the colored kernels to disclose the breaking, joining and rearranging of genes and chromosomes inside the cells. Because the pigments of the kernels are inherited, Dr. McClintock could trace genes through the changes in the colored kernels of corn.

#### ASTONISHING EARLIER DISCOVERIES

To the astonishment of molecular geneticists, whose precise tools now allow them to cut and snip submicroscopic genes, Dr. McClintock's discoveries about the nature of genes and inheritance were made at a time when no one even knew what DNA was.

In the 1930's, Dr. McClintock established her reputation by becoming one of the scientists to develop an understanding of chromosomes as the basis of heredity, work that was honored by her National Medal of Science.

Dr. McClintock's Nobel Prize was for her discovery that the genetic material is not fixed, but instead is fluid. Small fragments of DNA, called transposable elements, actually move from place to place and, in doing so, they control the expression of genes.

Dr. McClintock made this discovery nearly 40 years before she won the Nobel Prize, at a time when genetics was still so rudimentary that her ideas baffled other scientists and were often dismissed outright or ignored.

In an introduction to a volume of papers about Dr. McClintock, produced in celebration of her 90th birthday, Dr. Nina Fedoroff of the Carnegie Institution of Washington and Dr. David Botstein of Stanford University described Dr. McClintock's plight. Her ideas about transposable elements, they wrote, were "ahead of her time and Barbara found herself in an anomalous and unique position," adding, "She was universally respected and admired as one of the leading geneticists of her era, yet the reaction to her latest and perhaps most profound discoveries and insights was often uncomprehending or indifferent and not infrequently dismissive or even hostile."

#### FILED HER EARLY DATA

Concluding that she could never convince the scientific community, Dr. McClintock doggedly carried on with her work, carefully filing her data away and writing them up only in her annual reports to the Carnegie Institution of Washington, which supported her work.

In her biography of Dr. McClintock, "A Feeling for the Organism," Dr. Evelyn Fox Keller of the Massachusetts Institute of Technology wrote that geneticists were baffled by Dr. McClintock's ideas because they seemed too much at odds with the very nature of Darwinian evolution. The theory of evolution holds that changes occur randomly in genes, giving rise to changes that may or may not prove beneficial.

Dr. McClintock, however, was saying that purposeful changes occur in genes, that

transposable elements jump to specific places to insert themselves into genetic material and alter it.

Another stumbling block, Dr. Keller said, was that Dr. McClintock was working with corn, a species whose complex patterns of development were clear to her but not to many others. And she had done her work alone without the benefit of long discussions trying to explain her ideas to colleagues.

Finally, in the late 1970's, when molecular biologists isolated transposable elements in bacteria and then discovered that they were universally used by cells to control genes, Dr. McClintock's work was rediscovered and widely celebrated as prescient.

Dr. Shapiro said: "I think the implications of this work are just being realized. The idea that the genome is capable of repairing itself, and that it is capable of reconstructing itself, that there are systems in the cell that can detect damage and do appropriate things to repair it, has tremendous implications for evolution as well as for genetics."

Because Dr. McClintock worked alone, emphatically rejecting reductionism, because she was so often right and saw so clearly when others were muddled, she has gained a reputation as almost a mystic. Dr. Shapiro said she was more, "someone who understands where the mysteries lie than someone who mystifies."

Dr. McClintock "understands the complexity of the genome and the limits to our understanding of it," he said, adding, "She appreciated that the problems we are addressing are enormously deep and complex."

Dr. Keller described Dr. McClintock as a person who from infancy valued her solitude and independence.

Barbara McClintock was born on June 16, 1902, in Hartford, Conn. The daughter of a doctor, she grew up in Brooklyn and learned to love science while attending Erasmus Hall High School there. When she was 17, she enrolled at Cornell University's College of Agriculture, a university that had been extremely hospitable to women.

When she was a junior she was invited to take the university's graduate course in genetics and became, unofficially, a graduate student. From the time she received her Ph.D. in 1927 until 1941, she worked at Cornell University and at the University of Missouri, collaborating with some of the country's most eminent geneticists. From 1941 until her death, Dr. McClintock worked at Cold Spring Harbor, following her own course.

Dr. McClintock is survived by a sister, Mignon Crowell, who lives in Florida, and a brother, Thomas N. McClintock of Newtown, Conn.

#### CONGRESSIONAL BUDGET OFFICE REPORT—S. 2527

Mr. JOHNSTON. Mr. President, on September 30, the Committee on Energy and Natural Resources filed the report to accompany S. 2527, a bill to restore Olympic National Park and the Elwha River ecosystem and fisheries in the State of Washington.

At the time this report was filed, the Congressional Budget Office had not submitted its budget estimate regarding this measure. The committee has since received this communication from the Congressional Budget Office, and I ask unanimous consent that it be printed in the RECORD in full at this point.

There being no objection, the estimate was ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
Washington, DC, September 30, 1992.

Hon. J. BENNETT JOHNSTON,  
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for S. 2527, the Elwha River Ecosystem and Fisheries Restoration Act.

Enactment of S. 2527 would not affect direct spending or receipts. Therefore, pay-as-you-go procedures would not apply to the bill.

If you want further details on this estimate, we will be pleased to provide them.

Sincerely,  
JAMES L. BLUM  
(For Robert D. Reischauer).

#### CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

1. Bill number: S. 2527
2. Bill title: The Elwha River Ecosystem and Fisheries Restoration Act
3. Bill status: As ordered reported by the Senate Committee on Energy and Natural Resources on September 22, 1992.
4. Bill purpose: S. 2527 would direct the Department of the Interior (DOI) to acquire the Elwha and Glines Canyon water projects for \$29.5 million, subject to the appropriation of the necessary funds. DOI would be required, by January 31, 1994, to study the feasibility of acquiring the projects and to develop plans for full restoration of the Elwha River ecosystem and fisheries. If funds are provided for these purposes, DOI also would be required to: implement the restoration plan; protect existing water quality and availability in the area; and enter into long-term leases with the city of Port Angeles and the Lower Elwha Klallam Tribe. The bill would authorize such sums as may be necessary to acquire the facilities and to implement restoration plans. These funds would be available only after the study is completed.
5. Estimated cost to the Federal Government:

(By fiscal year, in millions of dollars)

	1993	1994	1995	1996	1997
Estimated authorization level .....	3	1	41	3	3
Estimated outlays .....	2	1	33	5	5

This table does not include the costs to implement the restoration plan or to protect water quality. These costs would range from about \$20 million to \$100 million, beginning in 1995. The precise costs of carrying out these activities will not be known until after DOI completes the required study.

In addition, we estimate that funds totaling about \$6 million would be necessary after 1997 to complete tribal housing and economic development activities, and that outlays for these purposes in 1997 and 1998 would total about \$12 million.

The costs of this bill fall within budget functions 300 and 450.

Basis of estimate: CBO assumes that S. 2527 will be enacted early in fiscal year 1993 and that funds to study restoration options will be provided beginning in that year (\$2.5

million in 1993 and \$1 million in 1994). We estimate the DOI would acquire the water project facilities in 1994 at the specified cost of \$29.5 million. Subsequent costs to carry out restoration activities—including the protection of water quality—could range from \$20 million to \$100 million depending on the restoration options chosen.

CBO assumes that the funds for tribal housing and economic development would not be appropriated until DOI completes the restoration report in 1994. Also, CBO assumes that the amounts authorized for land acquisition and planning related to the land acquisition would be appropriated over several years. Accordingly, CBO estimates that the funding requirements would be about \$11 million in fiscal year 1995 and about \$3 million annually for fiscal years 1996 and 1997. The remainder of the funds would be needed after 1997.

CBO estimates that all funds would be spent at historical rates for similar activities.

6. Pay-as-you-go considerations: The Budget Enforcement Act of 1990 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1995. CBO estimates that enactment of S. 2527 would not affect direct spending or receipts. Therefore, pay-as-you-go procedures would not apply to the bill.

7. Estimated cost to State and local governments: None.

8. Estimate comparison: None.

9. Previous CBO estimate: None.

10. Estimate prepared by: Theresa Gullo and Patricia Conroy (226-2860).

11. Estimate approved by:

C.G. NUCKOLS,  
Assistant Director  
for Budget Analysis.

#### TRIBUTE TO THE HONORABLE WILLIAM L. DICKINSON UPON HIS RETIREMENT FROM THE U.S. HOUSE OF REPRESENTATIVES

Mr. SHELBY. Mr. President, I would like to take this opportunity while debating the conference report on the DOD authorization bill to honor the service of the Honorable WILLIAM "BILL" DICKINSON of Montgomery, AL, who is retiring from the U.S. House of Representatives at the end of the 102d Congress.

Mr. President, BILL DICKINSON has served the people of the Second Congressional District of Alabama in the U.S. House of Representatives for 14 terms. As a native Alabamian born in Opelika, AL, BILL DICKINSON has done as much for the State of Alabama as anyone in recent memory.

BILL began his service to his country in the U.S. Navy during World War II and has not stopped since. Aside from fighting for his country, BILL's early accomplishments include his acceptance to the Alabama bar, his service as a judge in the Fifth District Court of Alabama, his selection as Outstanding Young Man of Alabama Jaycees in 1961, and his appointment as the assistant vice president of the Southern Railway System.

Despite this impressive resume, BILL's greatest accomplishments have

been realized during his 28 years in the U.S. House of Representatives. As a member and then ranking minority member of the House Armed Services Committee, BILL DICKINSON has been an invaluable asset and ally to the State of Alabama and the country. Through his guidance and leadership the United States built up the strongest military in history, which directly led to the downfall of communism throughout the world and greatly reduced the likelihood of a worldwide nuclear war. Were it not for the foresight of people like BILL DICKINSON, the United States would not be the dominant player it is today in the international community.

I have enjoyed working with BILL over the years and will truly miss his support and friendship. He is leaving behind a distinguished career and an honorable legacy. I wish him and his family the best of luck and an enjoyable retirement. BILL has certainly earned it.

#### ADDRESS OF JOHN BRADEMAs ON DEMOCRACY IN EASTERN EUROPE

Mr. PELL. Mr. President, I would like to draw to the attention of my colleagues the text of a recent address by our distinguished former colleague in the House of Representatives where he was majority whip, the Honorable John Brademas. As many of my colleagues are aware, after his long and distinguished career in the House, Dr. Brademas went on to serve as president of New York University, from 1981 until this year.

Recently, Dr. Brademas contributed a thoughtful address on democratic and economic conditions in the countries of Central and Eastern Europe and the former Soviet Union to a conference sponsored by the U.N. Development Program in Bucharest, Romania.

Dr. Brademas makes a compelling argument that despite domestic dilemmas, the United States cannot afford to ignore this historic opportunity to help the countries of the former Soviet Union and Eastern Europe develop open economies and parliamentary democracies.

I urge my colleagues to read Dr. Brademas' remarks, and I ask that the text of the address be printed in the RECORD at this point.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS OF DR. JOHN BRADEMAs, PRESIDENT  
EMERITUS, NEW YORK UNIVERSITY

MARKET ECONOMICS AND DEMOCRATIC POLITICS:  
TOWARD A NEW ERA FOR CENTRAL AND EAST-  
ERN EUROPE

(U.N. Development Round Table on Global  
Change, September 4-6, 1992, Bucharest,  
Romania)

I am honored to have been invited by the distinguished Administrator of the United Nations Development Programme, Dr. Wil-

liam H. Draper III, and Dr. Leonard Silk, for many years the highly respected economics columnist of the New York Times, to take part in this second UNDP Round Table on Global Change.

I speak to you from two perspectives.

First, as a Member of Congress for twenty-two years (1959-81), I've had the opportunity several times to travel to this part of the World—to Czechoslovakia, Hungary, Poland, Yugoslavia, the former Soviet Union and Romania.

Indeed, during my service in Congress, I twice visited Romania, on both occasions meeting the late Communist dictator, Nicolae Ceaucescu, once in his home in Bucharest and another time near Lake Constanza. I must tell you, however, that my recollections of my visits to the beautiful painted monasteries of Moldovitsa, Sucevitsa and Voronets are much more agreeable!

During my last four years in the House of Representatives, I was Majority Whip, that is to say third-ranking Democratic leader, with responsibility for counting votes and generating support for the positions of my party on contested issues.

As a legislator, I sat on the House committee, with principal responsibility for education at all levels—prekindergarten through school, college and university—the arts and humanities, libraries, museums, and other institutions of learning and culture and for services to the elderly and the disabled.

The second viewpoint I bring to these discussions stems from my having served for over a decade, 1981 to 1992, as President of New York University, the largest private university in the United States.

Three references to my own personal background as an American politician, legislator and university leader may help you better understand why I believe so strongly that the nations of the West, particularly the United States, must play a constructive part in encouraging, in the countries of Central and Eastern Europe and the former Soviet Union, the development of democratic political institutions and market-oriented economies.

#### A DIFFERENT WORLD

The subject of this Round Table is "Global Change: Systems and People." You and I know that the international environment in September of 1992 is far different from the time, just nearly two years ago, of the last such UNDP meeting, in Turkey, in September 1990.

The cascade of events since then has been dizzying—the crumbling of the Communist empire, the disintegration of seventy years of totalitarian governments and command economies and the beginnings of reform of the old, inhuman and ultimately unworkable structures.

Last fall, as President of New York University, I was in Moscow, a city I had as a Member of Congress visited over thirty years ago. I have, therefore, seen with my own eyes something of the extraordinary changes during those three decades. In the summer of 1991, I welcomed to New York University, nine days after his election as the first President of the Russian Republic, Boris Yeltsin, and what Yeltsin said then would have been unthinkable even three years ago. He endorsed human rights, a market economy, freedom for the Baltic states and the teachings of the Gospel!

In the Middle East, ancient enemies are flirting fitfully with the prospect of genuine dialogue about how to find a lasting peace.

Authors of the accord that merged the European Community and the European Free



Trade Association seek economic and other benefits for 380 million people in 19 nations. The North American Free Trade Agreement, just signed by Canada, Mexico and the United States, promises a market of nearly as many consumers, with a combined economic output of \$6 trillion.

Alongside these generally positive developments, however, are the horrendous war in Yugoslavia; violent ethnic struggles in some of the new republics of the former Soviet Union, including Romania's neighbor, Moldova; ongoing strife in Kashmir and Cambodia; and continuing Communist dictatorships in China and North Korea.

And, as I write, in late August, Saddam Hussein continues to thumb his nose at the United Nations and the entire civilized world and brutally repress Kurds and Shiites.

Standing on the sidelines, as it were, with the bulk of the planet's population and least of its comforts, are the developing countries of Africa, Asia and Latin America. The terrible tragedy of Somalia is the most dramatic example of how distant humankind is, as we approach the 21st century, from a world where thousands of people no longer starve.

Americans, too, face a burgeoning array of problems of our own, from combating crime and drugs to cleaning up the environment, from fighting AIDS to dealing with homelessness, from reinvigorating a listless school system to reigniting a stalled economy.

Worse, our ability to finance the immense efforts necessary to address these troubles has progressively deteriorated. This year's deficit in the budget of our Federal government has soared to nearly \$400 billion, over \$1 billion a day, a fact with profoundly crippling consequences for our strength at home and abroad.

Despite our domestic dilemmas, Americans cannot ignore our obligations to the wider world. Indeed, for the first six months of this year, I served on a commission, sponsored by the Carnegie International Endowment for Peace, of twenty-three Americans—Democrats, Republicans, Independents—former Senators, Representatives, secretaries of defense, ambassadors—all of whom had served in government with some responsibility in foreign affairs. Our charge was to articulate a new rationale for U.S. foreign policy following the collapse of Communism.

#### "CHANGING OUR WAYS; AMERICA AND THE NEW WORLD"

The Commission's report, *Changing Our Ways: America and the New World*, was released last July. Here is what we said about the first of the two subjects I wish to discuss:

If the countries of the former Soviet bloc can establish functioning market economies in this decade, it would be an historic accomplishment at least equal to the reconstruction of Western Europe and Japan in the 1950s.\* \* \*

The Commission strongly endorses a major U.S. commitment to this transition. The United States has taken on such a challenge before and has been the better for it.\* \* \*

With respect to the second theme of my remarks, our Commission report declares that Americans must care about democratization elsewhere in the world and that "expanding freedom" must be "one of the central pillars of our foreign policy."

#### TWIN OBJECTIVES: DEMOCRACY AND MARKET ECONOMIES

How should America pursue these twin objectives of democracy and market economies in the former Communist bloc countries?

First, I believe we must forge in the United States a partnership across several sectors—business and industry, labor, private foundations, colleges and universities, and the Federal government.

Second, a significant portion of the resources of that partnership must be targeted on the training of managers and on education in market economics. Without knowledgeable practitioners, flourishing economies cannot be successfully developed.

Third, some of the resources must be directed to encouraging the building of genuinely democratic political institutions.

Why, the United States, working with our European and Japanese colleagues—and competitors!—should create such a partnership must be obvious. At our best, Americans are champions of free peoples and open markets. Again, to cite our Carnegie Commission report, history teaches that democratic societies do not attack one another; that stable democracies are generally better trade and investment partners than repressive regimes; that environmental policies are more advanced in democratic nations because initiated by an informed public; that free nations more effectively protect the rights of their citizens.

The American contribution need not come only from the government. Nor must our participation always take the form of money. The United States has much else of value to offer. As fundamental to economic development as roads, bridges, tunnels, power and communications is brainpower—trained minds, skilled managers, educated leaders.

#### TRAINING NEW MANAGERS

The development of competitive economies in Central and Eastern Europe will depend in large part on how rapidly and well new managers can be trained and new knowledge imparted. You and I know the conceptual problems in these countries. Just what is a free market? How does it work? What are the basic skills required to operate in a market economy? How does one set up a business, calculate profit and loss, perform basic accounting, establish production and marketing goals? All these functions, essential to economic advance in the modern world, require education and training.

Certainly, one source of education and training in Central and Eastern Europe will be American business and industry as American firms become actively involved here.

I note, for example, the purchase by Phillip Morris of a controlling interest in the Tabak cigarette maker and the K-Mart acquisition of the Prior & Maj department store, both in Czechoslovakia; the purchase by General Electric of a half-interest in Tungsram of Budapest and, by Sara Lee, of a controlling interest in Compack, third-largest food company in Hungary.

Only a few weeks ago, by the way, my wife and I lunched in Gundel, the magnificent 19th century restaurant in Budapest, renovated by the famed Hungarian-born American restaurateur, George Lang. Particularly impressive to us were not only the splendid restoration and marvelous food but that Mr. Lang had insisted, before opening the restaurant, on rigorous, months-long training of the entire staff.

Acquisitions like these as well as the move to privatize industries in Central and Eastern Europe demand specific financial know-how. But from where does this know-how come? As the New York Times reported recently ("Czechoslovakia's Wall Street Brigade,"), Czech officials anxious to do business with Western firms realized quickly

that they were not equipped for high-finance transactions and so welcomed the arrival of American bankers and investment advisors who both improved the terms of the agreements for the Czechs and provided them some hands-on education in market economics.

Clearly, Western and Japanese acquisitions in Central and Eastern Europe can bring with them both an infusion of management skills and experience in a market economy. These capabilities can be imparted either by on-the-job example or in formal training sessions set up by the companies.

Even as each corporation will tailor in-house instruction to fit its own needs, broad-gauged educational programs remain the province of colleges and universities. In the United States there are some 3,500 institutions of higher learning, with an enormous diversity of academic strengths. At New York University, for example, we offer courses and carry out research on subjects ranging from business to law, from the humanities to medicine, from the performing arts to computer science, and we are particularly strong in European area studies.

Here I return to the idea of partnership for although many American institutions of higher learning can supply the expertise, most are unable, as non-profit organizations, to subsidize such assistance. Universities must depend for financial support on such sources as private foundations, business and the SEED program of the Federal government.

#### THE "SEED" PROGRAM

SEED is the acronym for the Support for Eastern European Democracy Act of 1989, a legislative umbrella for a variety of programs directed at stimulating, in Eastern Europe, particularly through the private sector, economic development; and encouraging democratic political institutions.

To carry out the purposes of SEED, Congress appropriated \$370 million for each of the fiscal years 1991 and 1992.

Although most of the SEED money has gone to Hungary and Poland, SEED projects have also benefited Bulgaria, Czechoslovakia, Yugoslavia and Romania. This support has provided food, children's relief, orientation for parliamentarians, trade and business advice, water pollution control training, and student exchange. SEED programs in Romania have totaled, in 1991 and 1992, nearly \$31 million.

In voting the money for SEED, Congress emphasized several specific uses, among them practical training in business management, which Congress urged be offered in both the United States and Eastern Europe.

I add that administrative responsibility for SEED is lodged in the agency for International Development (AID) and the United States Information Agency (USIA).

As I have been speaking of aid from the U.S. government, I must note that this is a campaign year in the United States and that on November 3, we shall elect a President and Vice President, all 435 Members of the House of Representatives and one-third of the 100 members of the Senate.

The subject of my remarks to you today, American assistance to former Communist bloc countries, could become a controversial issue in the campaign. I am, however, pleased to note that legislation, the so-called Freedom Support Act, to provide financial help to the states of the former Soviet Union, is backed by both President Bush and Democrats and Republicans in Congress and appears, as I write, on the way to becoming law.

This measure provides \$417 million in bilateral aid for humanitarian and technical assistance, for defense conversion and other efforts to encourage free market and democratic reforms. The bill also contains \$15 million for a Democracy Corps, to enable private U.S. citizens to promote democratic institutions at the local level in the Commonwealth of Independent States.

Although this legislation is commendable, I believe most objective observers agree that, measured by the immensity of the stakes, assistance from the United States and the West generally has been far too modest and far too slow in coming. For the goal here is nothing less than to lay the basis for genuine democracy in a vast, once totalitarian land that is obviously still in profound economic trouble and where free political institutions are by no means assured.

#### TO ENCOURAGE REFORM IN RUSSIA

A recent editorial comment from the Financial Times of London ("Risks facing Russian reform" August 13, 1992) makes my point in blunt fashion:

The fundamental error of the West has been to view reform in the former Soviet Union, particularly in Russia, as just another of those problems of impoverishment that beset it. This attitude explains why assistance was offered too late and was probably too little. \*\*\*

\*\*\* Reforming Russia is the most important economic challenge since the construction of post-war Western Europe.

"Things are rotten in the state of Russian reform," warns the FT. "Worse, the West's tardy assistance makes it appear as much of the problem as of the solution. If things continue to slide as they have in recent weeks, the question will soon be asked: Who lost Russia?"

As I am sure most of you know, it was not until both former President Richard Nixon and Governor Bill Clinton publicly pressed President Bush on aid to Russia that he finally showed some signs of life on the issue.

#### GOVERNOR CLINTON'S LEADERSHIP

As a Democrat, I strongly commend to your attention the address delivered by Governor Clinton at the Foreign Policy Association in New York on April 1, in which he outlined in specific terms what ought to be American policy to encourage free political and economic institutions in Russia and the rest of the former Soviet Union. Although Russia is obviously a case to be considered on its own, I believe that what Governor Clinton said about it represents a perspective applicable in many ways to the formerly Communist countries of Central and Eastern Europe.

Said Governor Clinton:

\*\*\* From Russia to Central Europe, from Ukraine to the Baltics, the U.S. and our allies need to speed the transition to democracy and capitalism by keeping our markets open to these countries' products, offering food and technical assistance, helping them privatize key industries, converting military production to civilian uses and employing weapons experts in peaceful pursuits.

Governor Clinton went on to spell out in concrete, specific terms what should be the contribution of the United States to encourage economic reform in Russia.

The Governor said:

\*\*\* Our nation's greatest resource is ultimately not our dollars nor our technical expertise but our values of pluralism and enterprise and freedom and the rule of law—and our centuries of experience in making those values work. In an era of fledgling de-

mocracies, those values can be our proudest export and our most effective tool of foreign policy."

What Governor Clinton said last spring in New York is important, of course, not only because he is now the leader of the Democratic Party in the United States but also because he is likely to become our next President and, in the context of what I have been saying to you, his statement on U.S. policy toward the countries of the former Communist world represents the kind of wise, vigorous leadership the world has a right to expect from America.

In addition to aid provided by the U.S. government, American colleges and universities can play a significant role in promoting market economies with programs of management training.

#### NEW YORK UNIVERSITY'S ROLE

My own institution, New York University, through our School of Continuing Education, has already launched a few such programs. Because they are models of the partnership of which I have been speaking, let me say a word about them. Here I note that the NYU School of Continuing Education, one of the largest in the United States, has for over seventy years served those who, while pursuing their education, may also hold down jobs and support families. Through flexible study arrangements, one can work toward a degree or learn any of a wide range of professional skills. The School today, under Dean Gerald Heeger, offers some 2,500 courses and approximately 15,000 persons enroll in classes each semester.

One SCE project, to be undertaken in cooperation with Charles University in Prague, will offer English language training and technical education in such areas as business management, environmental management, finance, banking, taxation, real estate development, marketing and public relations, tourism and hospitality industries, biotechnology and business and construction management.

The seminars, each lasting several weeks, will be held in Prague, each devoted to one of these subjects. We expect a total of 350 to 500 persons to participate in these courses. The "students" will include executives, managers, trade union leaders and technical school instructors. Attendees will be role models for others and will be urged to pass their freshly acquired knowledge on to their colleagues.

This "teach the teacher" aspect makes the program not only a renewable resource but an expandable one. There can be an invaluable multiplier effect.

The first program of this kind, on real estate privatization and managerial practices, was held in Budapest last year. Attended by all the district mayors of the City, the seminar was so successful that the Deputy Mayor of Budapest told me last June that my university is being invited to conduct another on tourism and public relations.

Also planned for the Spring of 1993 and also cosponsored by Charles University is a conference, organized by New York University's School of Continuing Education and our Medical Center, on developments in biotechnology.

The objectives of this conference will be to encourage biotechnology transfer by fostering relationships between Western firms and Central and Eastern European researchers.

Another NYU-SCE program will take place in the Ukraine for some 100 representatives of the Ukrainian National Bank and the Association of Commercial Bankers in the Ukraine. The goal will be to give practical

training and advice on privatizing the banking system.

Allow me here to make a broader point. I suggest that the establishment of programs of continuing education in Central and Eastern Europe could be a highly effective instrument for communicating knowledge in ways that allow immediate impact. In a country like Romania, for example, where of a total population of 23 million, just 200,000 persons have university-level degrees, programs that retrain the work force regardless of degree level can quicken the pace of transformation from command to market economy.

Let me hasten to say that New York University is not the only one in the United States to offer management education to Central and Eastern Europe. Several other American universities are engaged in such efforts.

I do, however, want to draw your attention to a program underway in Czechoslovakia and Romania because it represents a low-cost, high-yield means of facilitating communications between universities in the East and in the West and thereby speeding the sharing of knowledge and information, a process essential to a vibrant economy.

#### A PROGRAM FOR ROMANIA

Initiated by a long-time personal friend and distinguished American diplomat, former U.S. Ambassador to Romania, Harry Barnes, and a professor of computer science at George Mason University in Virginia, Stephen Ruth, the program aims at creating computer link-ups in Romania to make possible swift exchange and dissemination of ideas both within and outside the country.

Ambassador Barnes and Professor Ruth tell me that they expect that in a year, a few thousand researchers and educators in Romania could be linked with their colleagues in the rest of the world and that infrastructure improvements are now being fashioned to enable in yet another year as many as 10,000 Romanians to communicate with their academic and other counterparts by computer.

I have also been told that, in order to offer the kind of management training I have been discussing several Romanians have been planning to establish a business school in this country.

There are already management education centers in Czechoslovakia, affiliated with the University of Pittsburgh, and in Hungary. Professor Ruth believes it is possible to set up a high-quality business school in Romania. He is convinced that such a school could spread good business practices and, through short courses, seminars and guest lectures, could begin immediately. Organizing an MBA program would require more time.

Dr. Ruth also points to lessons Romania could learn from the business schools in Czechoslovakia and Hungary. For example, students must understand that they must work hard. They must have already had some relevant academic courses. There must be first-class faculty.

His last stipulation is perhaps the most difficult: adequate financial support beforehand.

Dr. Ruth adds that the most advanced technology for academic networking should be used as it is an information technology low in unit-cost, easy to access and capable of producing results from the outset.

I would observe that I do not believe providing management training both in Eastern Europe and the United States mutually exclusive. For example, short courses—six to seven weeks—in business management at an



American university for managers from Eastern and Central Europe can be combined with internships with a business firm in the community where the university is located. Academic and practical experience can go hand in hand.

And not only can managers benefit from spending some time on American university campuses. Five leading business schools in the United States—at Harvard, MIT, Northwestern, the University of Pennsylvania and Stanford—this year afforded some 100 Central and Eastern European professors the chance to join senior-level American executives for a summer of instruction in marketing, finance and organizational behavior.

According to a New York Times article, "Teaching the Ex-Communists Capitalism" (August 1, 1992), Marcel Duchaneau of the Academy of Economic Studies in Bucharest, a participant in the Stanford course, said, "We have to change the mentality of our managers. We have to teach them to take risks and to see this activity of making money as honorable and important."

The point of this experience, of course, is that the professors will return to their own universities better able to teach their own students.

#### BUILDING FREE POLITICAL INSTITUTIONS

I have so far discussed initiatives in the United States to promote management training in Central and Eastern Europe, but also crucial to economic development here is the building of free political institutions.

No one can quarrel with the proposition that to nurture democracy in countries unaccustomed to it is fraught with difficulty. Preparing the most basic voter information materials and recruiting and training volunteer poll watchers for elections are examples of activities that are essential but not easy. Assuring free, fair and open elections is very hard work.

Of course, even more fundamental—and potentially more difficult—is the recruiting of men and women ready and able to assume political leadership in a fledgling democracy.

There are several ways in which the United States and European Community states can assist, through private organizations as well as, where appropriate, governments. From helping develop political parties and build free labor unions, encouraging independent media, advising local government and stimulating citizen action groups to providing information on campaign and election management and the operation of legislatures, both the United States Government and American private groups can play constructive roles.

#### A CONGRESSIONAL TASK FORCE

Let me note by way of example the work of the U.S. House of Representatives Special Task Force on the Development of Parliamentary Institutions in Eastern Europe.

Created in 1990 by House Speaker Thomas Foley at the suggestion of its chairman, Congressman Martin Frost of Texas, the Task Force is assisting legislative bodies in the new democracies of Hungary, Poland, the Czech and Slovak Republics, Bulgaria and the Baltic countries.

So far, Congress has voted \$15 million to purchase—for parliamentary libraries—books, periodical and newspaper subscriptions and basic automated tools such as copy machines and personal computers. In addition, the funds have helped train parliamentary and library staff both in the United States and the home country. The Library of Congress, working through its Congressional Reference Service, has given invaluable aid and advice in this entire effort.

Even ex-legislators, through the United States Association of Former Members of Congress, are engaged in promoting democracy. The Association has sent former members of Congress and Capitol Hill staff, some speaking the relevant languages, to consult with Hungarian and Polish parliamentarians and has arranged meetings in Washington, D.C., with Administration and Congressional leaders for parliamentary delegations from Eastern Europe.

Another effort in this general field is the Institute of East-West Dynamics, an affiliate of the United Nations, which seeks to become a bridge between the U.N. system and private elements eager to encourage market economies not only in the former Communist bloc but elsewhere in the world. In addition to collaborating with universities, like my own, to train new managers needed by economies in transition, the Institute plans a parallel training program for parliamentarians.

#### NATIONAL ENDOWMENT FOR DEMOCRACY

Yet another U.S. initiative I must mention is the National Endowment for Democracy. The NED, of which I have just become a board member, is a non-for-profit organization, created by Act of Congress, that operates outside government, to strengthen democratic institutions around the world. The NED has concentrated much of its effort in Central and Eastern Europe as well as the republics of the former Soviet Union.

Here in Romania, NED has encouraged independent trade unions and independent publishers as well as organizations that promote respect for human rights, for the rule of law and for minorities.

Among the organizations working in Romania that receive support from the NED are the National Democratic Institute for International Affairs, and the National Republican Institute for International Affairs. The National Republican Institute provides training and material support for the development of democratic parties in Romania and participates in election monitoring activities.

The National Democratic Institute works with The Pro Democracy Association (PDA), a Romanian civic organization that pushes hard to prepare Romanians for elections. Last February local elections were held and, as you know, national elections are to take place in just two weeks.

PDA trained and deployed 7,000 poll watchers throughout Romania during the February elections. Following the elections, the domestic observers, who were instructed in proper election procedures and who acted impartially, were asked by the Romanian government to organize a meeting for party leaders and a government officials to discuss election law reform.

Unfortunately, Romania took a step backward when just last spring Parliament moved to curtail the access of domestic observers to the next election.

Here, I must respectfully submit—and I speak as one who was himself fourteen times a candidate for election to the Congress of the United States—without the presence of qualified national and international observers, Romania is demonstrating an unwillingness to embrace the most basic tenets of free political institutions: open and fair elections.

So that you can understand how seriously the development of democracy in Romania is taken in the United States I must advise you of two significant actions taken within the last few weeks by our Congress.

#### CONGRESS URGES ROMANIAN GOVERNMENT TO RESPECT HUMAN RIGHTS

I refer first to a letter dated August 13, 1992, sent to President Ion Iliescu and signed by 48 Members of Congress—Democrats, Republicans, liberals and conservatives—stating, in unusually blunt fashion, how resumption of most-favored-nation treatment for Romania, obviously important to economic advance here, will depend on " \* \* \* free and fair elections; an independent media; civilian control of the Romanian Intelligence Service (SRI); and the protection of human rights and civil liberties, including the rights of ethnic minorities."

The letter is sent with explicit reference to the national elections for the President and Parliament of Romania scheduled for September 27, 1992.

Second, the United States Senate on August 11, 1992 passed a "sense of the Senate" Resolution that makes many of the same points as the House letter, but adds a criticism of Romania for allowing, in violation of United Nations sanctions, the transport of goods to Serbia and Montenegro.

Because these actions in the U.S. Congress are directly relevant to the theme of my address and because election day in Romania will soon be here, I trust you will appreciate why I feel it imperative to bring them to your attention.

#### TOLERANCE ESSENTIAL TO DEMOCRACY

I hope you will allow me here to make a fundamental point. Essential to the development of a genuinely democratic society—and of a government to serve it—is tolerance, respect for the ideas and viewpoints of men and women with whom one may not agree. This respect for differences, commitment to pluralism rather than a single ideology or attitude, is indispensable to any nation that pretends to be civilized.

Particularly important in this regard is the treatment of minorities. We need look only to the doctrine of "ethnic cleansing" that has brought such terrible tragedy to what used to be Yugoslavia.

Romanians know better than I how hatred by one group for another has divided the people of this land. For the cases of hostility to the Hungarian minority are not matters in which Romanians can take pride. In any democratic country the majority has a special responsibility to be attentive to the concerns of minorities. As an American of considerable experience in the political life of my own country, I know—I have seen—how demagogues have attempted, at times with success, to provoke one group to hate another in the United States.

So in offering these comments, I am well aware that no modern democracy is without flaw in assuring tolerance of, if not, respect for, diversity. I do, however, insist that this must be a goal toward which we in the West and more to the point, the peoples of the emerging democracies, must strive. Otherwise, there will be more Yugoslavias and more closed societies, of Left and Right.

Although I have spoken of several efforts to promote democratic political institutions and market-oriented economies, I have obviously not attempted to be exhaustive. Governments and private organizations in other countries, especially in Europe, have undertaken similar activities.

Let me conclude my remarks with an observation on the public-private partnership I have advocated and the significance I assign to it. We all realize that after nearly three generations of command economies and authoritarian governments in Central and Eastern Europe, there are massive obstacles

to the establishment of parliamentary democracies and market economies. To achieve these goals will be neither simple nor easy. But to do so is essential.

For building democratic political institutions in the nations of Central and Eastern Europe and transforming their economies are objectives crucial not only to the quality of life of the peoples of this region but to creating a world where peoples everywhere enjoy the blessings of peace, justice and freedom.

#### TRIBUTE TO MATTIE LEE WILLIAMS BONNETTE

Mr. THURMOND. Mr. President, I rise today to pay tribute to Mrs. Mattie Lee Williams Bonnette, who passed away on September 29, 1992. Mrs. Bonnette was a lovely lady and an educator of great dedication and ability, and she will be deeply missed.

Mrs. Bonnette was a graduate of Winthrop College. In an era when few women pursued higher education, she earned a master's degree from the University of South Carolina, and she devoted her life to teaching others. She taught in several schools before becoming principal of Ridge Spring-Monetta High School, and she also served as assistant superintendent of area 4, Aiken County schools. In addition, she served as dean of Ridge Spring Community College, and she was well known for her dedication to the welfare of her many students.

Mrs. Bonnette was also active in the community, participating in a number of organizations and clubs, as well as her church, Ridge Spring Baptist. In addition, she was active in a number of professional organizations, including the American Association of University Women.

Mr. President, Mrs. Bonnette was a woman of substance, and her years of teaching benefited many in our State. I would like to take this opportunity to offer my deepest condolences to her daughter, Jean Bonnette Houston; her brothers, C.B. Williams and Senator Marshall Williams; and the rest of her family.

#### ARAB, ALABAMA'S CENTENNIAL

Mr. HEFLIN. Mr. President, it is my pleasure today to congratulate the Marshall County city of Arab, AL, as it celebrates its 100th anniversary this year. Arab, located in the north-central region of the State, southeast of Huntsville, has a long and rich history that mirrors that of Alabama and the South as a whole. Its story is one of early settlers, native Americans, party politics, war, agriculture, and economic development characteristic of so many towns throughout the South and the Nation. Every history is unique, however, and Arab's is no exception.

Janet Calhoun, president of the Arab Historical Society, is editing "Trails and Traces, People and Places," to be

published as an Arab centennial project. It is the fascinating story of Arab going all the way back to the early days of America's existence as a nation. What makes it most interesting is that it traces the town's settlement and development against the backdrop of the history of America itself.

Janet has prepared a short summary of Arab's history, excerpted from the upcoming book, and I ask unanimous consent that it be printed in the RECORD immediately following my remarks.

Again, I proudly commend and congratulate Arab on the occasion of the 100th anniversary of its incorporation, and wish the good people of this area many more decades of growth and prosperity.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

#### SUMMARY

Even though Arab is just now celebrating their 100th year as an incorporated town, there have been people living around here since 10,000 years before the birth of Christ. For centuries tribes of Indians claimed this land. By 1790, it was the Cherokees who lived in the area and hunted in the vast forest on top of Brindlee Mountain.

When the first settlers came to Northeast Alabama, the Cherokees were already civilized and living in log cabins and raising crops. Some of them owned stores, ferries, and plantations with slaves. They proved to be remarkably friendly and helpful to the early settlers.

Andrew Jackson came through this area in 1813 on his way to fight the Creek Indians. He built a road and established Fort Deposit, a supply fort, near Warrenton. The road, known as Jackson's Trail, was Marshall County's first wagon road and was used over a hundred years. He built another road in 1813 which extended from Warrenton across Brindlee Mountain to Ditto's Landing at Whitesburg.

The United States acquired the land that is now the Arab area in 1814 and gave the settlers the right to settle it in 1816. Settlers, traveling by packhorses or in wagon trains, came to the Arab area by following the "Old Cumberland River War Trail" through Winchester, Tennessee and on to Huntsville, Alabama via of an 1810 post-road. From there they took the road to Ditto's Landing on the Tennessee River.

Since the Tennessee River was the first "highway" through this area, many settlers came on flatboats. That method of travel enabled them to bring their furniture, livestock, farm equipment, and provisions.

After crossing the Tennessee River, the old Indian Trace, called Bear Meat Cabin Road, was taken south. The first fifteen miles was in Cherokee territory. Arab was an additional three miles south. The road continued south twenty miles to Bear Meat Cabin (Blountsville) where a Tennessee trading post was established. The road then went on to Tuscaloosa. It was considered to be a fairly good road.

The Georgia State Road, established by Federal authority in 1816, opened access from Georgia. The north/south road from Ditto's Landing to Arab was authorized by Congress in 1818 as a Federal post road. First called Bear Meat Cabin Road, it became the Hunts-

ville St. Stephens Road since it connected Huntsville with the 1817-1819 capital of the Alabama Territory. Alabama's first stage line traveled this route and was part of the main mail route between Cincinnati, Ohio and New Orleans.

In 1819, the Cherokees gave up their land north of the Tennessee River. Jackson's soldiers had seen the beauty of that area which had not been settled. Some returned after the Creek Indian War and settled there. Many of these men were well educated with political experience and gave the new settlements good leadership.

In 1822 Philip Dedman Clack homesteaded land in Eddy, now north Arab, which he purchased for one bit an acre (12½ cents). Afterwards he built a two-story stagecoach inn known as "Clack's Stand".

Roads at that time were crude trails, passable in a wagon in good weather and on horseback otherwise. They had deep holes, rocks, choking dust or deep mud with stumps cut just low enough not to interfere with axles of wagons. A system of privately owned and maintained roads were developed to accommodate the stages. State charters were granted which regulated road building, maintenance and toll charges. The Alabama Legislature designated the section of the Huntsville Road through Arab as Clack's Turnpike.

Stage coach inns were located all along the road that still goes through downtown Arab. Horses had to be changed every ten to fifteen miles. Many of these inns still stand in 1992 and some are in good condition. They add a colorful chapter of Arab's history.

The Joseph Thompson family, who provided the leadership for Arab's beginning, moved into Marshall County in 1836 and settled to Brown's Valley. By 1840 they moved to Thompson's Falls. The Thompsons are Arab's founding fathers.

Stephen Tuttle Thompson moved to what is now Arab in 1858. Others were also beginning to settle on the mountain. They were farmers, hunters, trappers, cutters of timber, small scale stock raisers, blacksmiths and some merchants, professional, and teachers.

They grew a little cotton for paying taxes and buying things they could not produce such as coffee, etc. Corn was the crop grown to feed animals and make bread. While oxen were the beast of burden, farmers also had horses, mules, and "milch" cows which they gave open range. The average farm was too small and generally too rough for the use of machinery which the farmers could not afford anyway. Lack of transportation and communication held back progress.

The settlers were 50% Scotch Irish from the Carolinas, Tennessee and Georgia. They were adventurous men and women who followed the old trails to a new land in quest of a better life. Filled with the love of liberty and civil rights, they were determined to establish a good life.

House raisings, clearing new ground and log rollings were three of the leading social activities with economic advantages. Big meals went with these occasions. Corn husking and cotton picking bees, staged at night, added more fun. People danced the Virginia Reel and played fiddles.

There was no danger of their being swept away by anarchy, socialism, communism, or fascism for they were filled with religious zeal, brains, foresightedness, and determination. How they reacted as history unfolded around them was influenced by their beliefs, goals, opinions and values. Their torch has been passed from generation to generation and their mark is stamped on their heirs today.



Since most of the men were small farmers, they had to assert themselves to protect their rights. They had little goods but wanted an opportunity to be part of the decision making process without being shackled with the economic barriers of the privileged class. Traces of that political thought are still alive in 1992.

They were mostly Union Democrats, a political party active at that time. "Union" to them stood for the opposition to the privileged class. Evidence to this thought is still found in the names of communities around here such as Union Grove, Union Chapel and Union Hill. Union sentiment was strong in the area.

When the Civil War broke out, this area had reasons to oppose secession. They had no slaves and little connection with South Alabama. They felt by seceding they would lose their Tennessee markets for they thought Tennessee would not secede. Many wanted to secede from secession and refused to enlist in the Confederate Army. Some hid out because they had no fight with the U.S. Government. They felt a democracy should allow individuals to choose whom they would serve.

Stringer Woods became Arab's first merchant when he opened a store in 1865. D.T. Thompson soon bought the business and sold it to Stephen Tuttle Thompson. Other businesses included tanneries, saddles & harness makers, distilleries, carriage & wagon makers, grist & saw mills, cotton gins and blacksmith shops.

In 1882 when Arab's post office opened, the town officially became "Arab". Tuttle Thompson, the first postmaster, attempted to name the town for his son, Arad. He sent that name to Washington, but it came back Arab. So Arab it has been for 110 years.

When the stagecoaches were replaced by railroads, roads were no longer operated as turnpikes, but became the responsibility of the county. Not enough taxes were raised to pay for adequate building and maintaining of roads. Locally, the voters repeatedly voted down taxes which would have given them better roads. The results were low prices, stagnated progress isolated communities, and lack of competitive markets. A crop mortgage system kept the farmers constantly in debt. This "catch 22" also served to keep them in this system for quite some time.

Here's an example to indicate how bad the early roads really were. If you had to go to the county seat in Guntersville, you probably would have gone in an oxen drawn wagon. You and your animal would have stayed overnight at a place such as A.G. Henry's Camp House for the trip took two days. For comparison in 1945 it took 35-40 minutes and in 1992 you can arrive in 15 minutes.

An event that helped Arab to move forward was the opening of the Bank of Arab in 1909. It was Arab's first bank and the building still stands in 1992.

Arab for reasons not yet determined, had to be reincorporated in 1916. The population of Arab in 1920 was 264. In 1922, Arab had \$65.05 in the bank and by 1926 the town hired a city attorney at \$25 year. During 1928, city taxes were set for business from \$10-\$25 while pool rooms and billiards were \$500.

Times became very hard in the late 1920's and 1930's in Arab. Fifty cents a day was the going wage. Not having money didn't bother people for no one had any. Christmas was a short reprieve from the reality of life during the lean years. Somehow they got through it all.

The TVA (Tennessee Valley Authority) was one of the greatest helps for Marshall

County. Many opposed it for they wanted no governmental controls over their lives. However, the long term benefits for the majority outweighed the measures which went against the wishes of the minority for it brought electricity within the reach of everyone.

Thousands of trees were planted in Marshall County by young men (18-25). Families received \$25 out of the \$30 monthly pay. It put money into the sagging economy.

The WPA (Works Progress Administration) put people on relief but they worked for what they received. They paved "farm to market roads" and built large public buildings such as schools, city halls and court houses. Summit School south of Arab was WPA built and it still stands.

Other programs came into being such as the REA (Rural Electrification Administration) and the FHA (Farmers' Home Administration) which helped the farmer to modernize his home on insured loans.

Arab's merchants helped to shape the town's political thought, leisure and work traditions. Business lenders were often called upon to offer leadership and to solve city problems. Merchants have been and still are called on to give donations to support a large portion of the town's projects. Today in 1992, through the Arab Chamber of Commerce, the merchants are collectively playing a vital role in the success of Arab.

Arab is very fortunate to have many business firms and services that have catered to the public's needs for 40 years or more. Several have been continuous over eighty years. Fifteen firms and services in Arab represent 827 continuous years in business. Their continuity in business has given a sense of well-being, stability, confidence, and trust to this community.

In 1931-1932, Mayor Squire Marsh of Arab worked a year with the help of friends to acquire the right-away from farmers to widen the road both north and south of Arab. This continued the work started on the north side of the Whitesburg Bridge and was done so the highway through Arab could become a State Highway. This meant the state would maintain the chert road. In downtown Arab during this time buildings on one side of Main Street were cut off ten feet to widen the road. Merchants on the other side paid the cost.

About this time, the U.S. road building focus changed to building interstate and tourist highways. These highways became the very symbols of progress. Southerners also began to view them as their goals since they still promised the hope of a better future. So the widespread use of the auto brought about the change for better roads.

New job opportunities arose, for motor vehicles needed fuel, oil, spare parts, and garage mechanics. All of this generated a new national culture which showed up in filling stations, tourist cabins, roadside ads, and a variety of auto related businesses. General stores and livery stables were the first to offer these services. Soon Gulf, Standard, Shell and Texaco stations sprung up everywhere. A brick Gulf station was built downtown in Arab in 1936 by Charles Boyles and is still standing.

The year 1936 saw the Whitesburg Bridge opened as a free bridge. To get ready for this, bituminous surfacing of 4½ miles of Main Street toward Birmingham and 2 miles toward Guntersville was completed. An elegant twenty-two room hotel was opened to accommodate the tourist that used the highway through Arab on their way to Florida.

In 1939, the Farmer's Exchange opened downtown offering good prices for what the

farmer had to sell. Anything the farmer needed was sold at reasonable prices or they swapped what they had for what they needed. The week it opened, large hens were ten cents a pound. They had a grist mill to grind farmer's corn or feed. This building still exist in its original state in 1992.

During the 1940's, farmers were very strongly urged to plant Kudzu! It was the magic vine that prevented soil erosion, made good hay and good grazing. Seeds were \$1 a pound. As a result of this widespread miracle plant, Alabama is covered over with a jungle type weed which devours everything in its path.

Cotton was the cash crop and eight big warehouses downtown attest to that fact. Cotton farming could not have been accomplished without mules. The old mule barn still stands downtown in 1992 just the way it was when the last mule was sold.

The total cash income per farm in Alabama in 1940 was \$498. That was \$72 better than it was in 1939 and \$111 of it was AAA government payments.

In 1941, Huntsville was selected for a big government chemical plant for manufacturing and loading shells and bombs for World War II. The 30,000 acre site was to be located between the air port and the Tennessee River and would employ 5,000 people. The boom for Arab was on for by the 1950's many a new person had moved into Arab to live while they worked at Redstone Arsenal in Huntsville.

By 1945, the U.S. Government agreed to take over the Huntsville-Oneonta Road through Arab as federal Highway 231. The government built a \$40,000 a mile road which was double the cost of ordinary black topping. Arab finally had an adequate road and it was part of the road that was billed as the "Shortest Route to Florida". And for the second time the road through Arab was an important route south.

All of these changes accelerated Arab toward modernization. As changes were made, things began to disappear. Among them were the small country stores for it was within the reach of the farmers to go to larger stores in town which offered more variety. Small one and two room schools vanished due to consolidation, better roads and bus-sing students long distances.

Because of the influx into Arab of people who were employed at the Redstone Arsenal and other related industries in Huntsville, Arab's population increased 87.8% from 1950-1960. It was difficult for the city to keep pace with the ever increasing needs of the people.

The building industry was booming, bringing more and more demands for utilities, new streets, water, fire and police protection. The schools were bursting at the seams. At this time Bluebell was the only factory in Arab.

Today Arab is coming to her own and is not just a bedroom community for another town. Many diversified industries have located here. Arab, although only a town of 6,000 in its city limits has a greater shopping area of 35,000 people who are located in small communities all over Brindlee Mountain.

Sadly all of this progress has not come about without a cost. Dixie as we once knew it has begun to disappear. It happened along the highways where 20th century modernization took the form of chain stores, fast foods, gas stations and motels that all look alike. The area's cultural identity is being replaced with a wholesale sameness as everywhere else with McDonald's, Hardee's, Walmart, Captain D's, Arby's, Kentucky Fried, Pizza Hut, Dominoes, and Pasquale's. Arab has them all.

No history could be complete without mentioning how the adults educated their young to inherit the town they toiled to develop. Schools were a big interest in Arab and they still are today.

By 1883 the Northern Methodist built a log church downtown Arab that was also used as a school. Several frame schools were built but when the state of Alabama planned to build a brick high school in each county, Arab wanted it located here. Guntersville was selected to get the school and Arab's people were very disappointed. In 1921, they decided to build their own. Many families couldn't give money so they gave days of labor. Some borrowed money by mortgaging their farms. Bricks were molded out of dirt dug from the basement. A kiln was kept going day and night to bake the bricks. It was a beautiful school and it still stands in 1992.

Needless to say with such love and dedication, a lasting bond was formed among the students, parents and teachers for the building and for each other. The impact and lasting influences from that pride in educating their children is still reaping rewards in 1992.

Arab always wanted the best education they could provide for their children. The results of that attitude shows up on the ATC scores which reflect high grades well above state and national levels.

Not many people get to attend their 66th Senior Class Reunion but here in Arab not only has that happened but two of the teachers of the class of 1926, Jewel Edmondson and Frances Crawford, and their high school building (the one described above) are both still with them!!!

In 1948, a modern, new high school was erected on Guntersville Road at a cost of \$155,000 and a football stadium which cost \$11,000 was completed about the same time. A new gym was built in 1953. This school burned in 1975 and was replaced with a multi-million large sprawling building.

Adults were hard on children in early Arab and really made them mind. Yet the children who grew up in these homes say that their bonds of childhood remain. The opinions they hold of their parents are that they were ordinary people who were good, honest and hardworking folks whom they loved, respected and honored. They feel that they will never be as sure of their place in the world as they were when they were growing up at home. Parents gave them the gift of themselves.

Youngsters had to help with the work at home both inside and out. Many a youngster at age 10 or 12 would break up and plant 10 acres of cotton with a team of mules. Even the little ones had to take water and lunches to the others.

Religious influences were powerful. The early method of spreading the Gospel to the settlers was the circuit riders. They brought the news, told of Indian movements, and were a welcomed change from the harsh routines. Their presence had a real effect on society.

Most of the earliest churches were started with small congregations of 8-12 members. They met under bush arbors. The Methodist and the Baptist were the largest denominations in Arab. In the summer after the crops were laid by or harvested, revivals were held and everyone went to all revivals. It was nothing for them to go as far as 10-12 miles in a horse drawn wagon to church. Sacred Harp singing was widely enjoyed.

Discipline was strict in the early churches. Members were expelled for drinking, fighting, sexual immorality, horse racing, card

playing, dancing or harmful gossip. This area had said of it in early days, "It is a section where virtue and religion reign supreme, where people are contended and live at home, where neighbors recognize each other's rights and live in perfect harmony and where nobody but a lawyer would starve."

#### TRIBUTE TO SENATOR STEVEN SYMMS

Mr. THURMOND. Mr. President, I rise today to pay tribute to one of our colleagues who will not be joining us for the 103d Congress, my good friend from Idaho, Senator STEVE D. SYMMS.

It has been my pleasure to serve with Senator SYMMS since he joined this body in 1980. He came here as a highly qualified individual, and has distinguished himself admirably over the past 12 years, earning the respect of Members on both sides of the aisle.

Americans think of Idaho as part of the Great American West, where rugged and patriotic individuals established themselves with little tolerance for Government interference. This philosophy of hard work and self-reliance has played an important role in Senator SYMMS' public service, both as a Member of the House of Representatives and as a U.S. Senator.

A native of Idaho, Senator SYMMS graduated from the University of Idaho in 1960, and chose to serve his Nation as an officer in the Marine Corps. Upon completing his tour with the corps, he returned home to help manage his family's fruit ranch. He worked on the ranch for 9 years before once again answering the call to public service, this time to run for the U.S. House of Representatives. He was elected and served with distinction for 8 years. In 1980, STEVE moved across the Hill, becoming the junior Senator from the Gem State by defeating a four-term incumbent.

As a Member of the Senate, STEVE SYMMS has made many valuable contributions. On the Armed Services Committee, he has fought hard to maintain a strong national defense, and he has been a valiant advocate for the Marine Corps, working to see that they remain America's quick-deployment force. Senator SYMMS has also served on the Environment and Public Works Committee, where his great love for the outdoors has been channeled into significant legislation designed to protect the environment while increasing its availability for recreational uses. He has championed the cause of fiscal conservatism, and been a valuable ally in the fight to control wasteful Government spending.

Senator SYMMS has been a reasonable and persuasive voice for restraint on the Joint Economic Committee, the Budget Committee, and the Finance Committee. Finally, as a lifetime member of the National Rifle Association, Senator SYMMS has vigorously protected Americans' second amendment rights whenever they were threatened in the U.S. Senate.

Mr. President, STEVE SYMMS is a man of character, courage, compassion, and ability, and he has been an energetic advocate of the people. He will be deeply missed by this Senator and his many other friends in this body. I would like to take this opportunity to commend him for his excellent service to the people of Idaho and the United States, and wish him and his lovely wife Loretta luck in all their future endeavors.

#### TRIBUTE TO MAYOR ROBERT G. WALDROP

Mr. HEFLIN. Mr. President, we all know of those local elected leaders from our States who, because of their long tenures in office, accomplishments, dedication, and hard work, seem to define the term "public servant." These are the ones who do not necessarily seek headlines, but whose satisfaction comes from doing good things for their communities. I know of no other leader who fits this definition and style of public service more aptly than Homewood, AL, Mayor Robert G. Waldrop. Mayor Waldrop, one of the longest serving mayors in the State, will be leaving his post on October 5, after 24 years of service. More than anyone else, he deserves credit for the success and growth of this Birmingham suburb over the last 24 years.

Mayor Waldrop originally entered the political arena after completing two other full careers: for 15 years, he was a pharmacist and for the 18 after that was a successful insurance agent for Liberty National Insurance Co. He has worked virtually his entire life. As if to portend his career as a pharmacist, his first job was at a drugstore when he was only 12 years of age in the small coal-mining town of Parrish, in Walker County. His own father was once mayor of Parrish.

Bob graduated high school in 1932, attended Auburn University for 1 year, then went to Birmingham to study at Howard College, now Samford University. In 1941, he and his wife Louise moved to Homewood. He left school a couple of years later to join the U.S. Army. After the war, he reentered Howard and completed his bachelor's degree in pharmacy.

By the 1960's, Bob had become well known in Homewood as president of the Lions Club and as a member of the library board. In 1968, several concerned citizens prompted him to consider running for mayor. There was a concern among Waldrop and local merchants about the number of small companies which had left the town. Since Homewood was his hometown and its concerns were his, he decided to run, and, if elected, serve one 4-year term. The rest, as they say, is history: he has been mayor ever since, remaining in office a little longer than he had anticipated.

Mayor Waldrop has been in the unique position of watching his city



grow and expand from a budget of \$1 million to over \$7 million. He watched as the library doubled its number of books and services and moved to a new location. He watched Homewood break away from the county school system and establish its own, now recognized as one of the best in the State. He has seen Brookwood Hospital grow into one of the leading health care institutions in the State. He has served on the board of directors of Lakeshore Rehabilitation Complex, helping to make decisions that have resulted in a \$7 million renovation of the facility.

During his six terms as mayor, over 100 acres of park land have been added to the city and three swimming pools built. Mayor Waldrop initiated assessment-free street paving and waste pickup. Brookwood Village was constructed, and the Green Springs area annexed into the city during his tenure. In appreciation for his many years of service, Homewood's high school stadium was named in his honor.

At the State level, Bob Waldrop was effective in addressing issues of importance to local officials. He served for a term as president of the Alabama League of Municipalities, which he recounts as a very exciting time for him. As its president, Mayor Waldrop was instrumental in getting the League's Workers' Compensation Fund established in 1976. He has served on the board of the fund since its inception, and as its president in recent years. He was also on the committee that created the Alabama Municipal Insurance Corp., a mutual insurance company offering liability, property, and casualty insurance to cities and towns. The mayor served on the first board of this company. He presided over the spouses' breakfast at the annual League of Municipalities convention for over a decade.

It is evident to all who know him that Mayor Robert Waldrop has served his community with a tremendous spirit and very apparent that he is a part of Homewood and Homewood a part of him. Although the voters in Homewood, like those in thousands of communities and jurisdictions across the country, opted for change this year, Mayor Waldrop can take pride in the fact that he did an outstanding job in looking after their interests and ensuring the progress of their city. He will long be remembered for his unique role in Homewood's history, and his legacy is one that mayors all over the State and country can look to as one to emulate.

It is my pleasure to commend Bob Waldrop for being the quintessential public servant. I am confident that his community has not seen the last of his tireless devotion. I wish him all the best in his future endeavors.

Mr. President, I ask unanimous consent that a resolution adopted September 14 by the Homewood City Council

in honor of Mayor Waldrop be printed in the RECORD immediately following my remarks.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

#### RESOLUTION NO. 92-21

Whereas, Robert G. Waldrop has served as Mayor of the City of Homewood, Alabama, since his election to that office in 1968 continuously to the present; and

Whereas, since Mayor Waldrop's election to office in 1968, the City of Homewood has enjoyed tremendous growth, expansion and success in business and opportunity for its residents; and

Whereas, during Mayor Waldrop's tenure as Mayor, he has received numerous awards and commendations, and has expended great energies to the benefit of the residents of the City of Homewood, Jefferson County, and the State of Alabama, which accomplishments include, but are not limited to, the following: (1) original organizer of the Jefferson County Mayor's Association in 1969 and served as its President from 1972 through 1974; (2) a motivating force and promoter of the Homewood School System; (3) honored by the Shades Valley Civitans as the Outstanding Citizen in Homewood in 1970; (4) elected the Boss of the Year in 1971 by the Alabama Business Women's Association; (5) honored by the Homewood Board of Education, by naming the football stadium the "Robert G. Waldrop Stadium" in 1976; (6) was elected President of the Alabama Workmen's Compensation Insurance Corporation for the State of Alabama; and (7) was elected President of the Alabama Legal Municipalities in 1976, and has served for the last fifteen (15) years on the Executive Board of the League; and

Whereas, Mayor Waldrop has provided the excellent leadership necessary for the development and growth of the City which accomplishments include development and expansion of a fine school system, development and expansion of Brookwood Hospital as a premier hospital in the southern portion of Jefferson County, annexation of numerous acres of property for residential and commercial development providing an excellent tax base and residential setting for Homewood residents, all of which growth and developments will be well chronicled in the history of the development of the City of Homewood, Alabama; and

Whereas, the members of the City Council of the City of Homewood desire to express officially, as well as individually, their appreciation for the outstanding services which Robert G. Waldrop has rendered to the City of Homewood and its residents during his twenty-four (24) years of service as Mayor of the City of Homewood; and

Now, Therefore, be it Resolved by the City Council of the City of Homewood, Alabama, at a regular meeting duly assembled, a quorum being present, as follows:

1. That the City Council of the City of Homewood, by the adoption of this Resolution, does publicly commend, thank and state as an expression of appreciation to Mayor Waldrop for the long and dedicated service which he has rendered to the citizens of Homewood as Mayor of the City of Homewood.

2. That the City Council of the City of Homewood desires to make a public statement of their thanks and gratitude to Robert G. Waldrop for his long and dedicated service to the City of Homewood and do by the adoption of this Resolution make such statement.

3. That the City Council of the City of Homewood does direct that a copy of this resolution, after its adoption by the City Council, be distributed to Robert G. Waldrop, members of his family and that appropriate certified copies thereof be forwarded by the City Clerk to such other persons or organizations as she deems appropriate in the premises.

4. That this resolution shall be made a part of the official minutes of the meeting of the Homewood City Council.

#### TRIBUTE TO SENATOR WARREN RUDMAN

Mr. THURMOND. Mr. President, I rise today to pay tribute to a respected colleague and good friend who will not be joining us for the 103d session of Congress: The senior Senator from New Hampshire, WARREN RUDMAN. Senator RUDMAN is one of the finest Senators I have had the pleasure of serving with during my 38 years in the Senate, and I shall miss him.

There can be no doubt that Senator RUDMAN is a patriotic and public-spirited person. Upon his 1952 graduation from Syracuse College, then-Lieutenant RUDMAN was sent to Korea by the U.S. Army, where he served with distinction as an infantry officer. He rose to the rank of captain, and shortly after leaving the Army, he entered Boston College, where he earned a law degree. Following completion of his studies, he practiced law, first privately, and then as the attorney general of New Hampshire.

In 1980, after defeating an incumbent Democrat, Senator RUDMAN came to Washington to serve his Nation yet again, this time in the U.S. Senate. He quickly showed himself to be a legislator of great potential, and was voted the most promising Member of the Senate class of 1980. During his two terms in the Senate, he has established a reputation for commitment and integrity. He has served with distinction as vice chairman of the Senate Ethics Committee, and has also become one of the most recognized national advocates for fiscal restraint.

Senator RUDMAN is an expert on financial matters, and he has argued vigorously for more commonsense spending during his tenure on the Senate Appropriations Committee. His commitment to eliminating the deficit led him to coauthor the Gramm-Rudman-Hollings deficit reduction law. He has also served on the Senate Intelligence Committee and the Governmental Affairs Committee, and has played an active role on the Permanent Subcommittee on Investigations.

Mr. President, WARREN RUDMAN is a man of character, courage, compassion, and ability, and he has earned the friendship and respect of Members on both sides of the aisle. His dedicated service to the people of his State and the Nation, and his formidable skills as a lawmaker will be deeply missed by

this Senator and many others when the next Congress convenes. I would like to take this opportunity to commend him for his excellent service and wish him the very best in all his future endeavors.

#### TRIBUTE TO JOSEPH M. FARLEY

Mr. HEFLIN. Mr. President, I rise today to pay tribute to Joseph M. Farley, a distinguished leader from Alabama who has played a key role in the electric utility and nuclear energy industry. This year, Joe Farley retires as chairman of the board of the Southern Nuclear Operating Co. and corporate counsel of the Southern Co. in Birmingham, AL. He will also retire as chairman of the American Nuclear Energy Council, which represents over 100 utilities and organizations with interests in nuclear energy.

Joe Farley has worked in the field of law and the nuclear energy industry for over 40 years. With an engineering degree from Princeton University and a law degree from Harvard, he returned to Alabama to practice law. In 1965, he became executive vice president of Alabama Power, and was elected president of that utility company in 1970. During his time as president of Alabama Power Co. he was the driving force in business recruitment for the entire State. During the years between 1970 and 1989, Alabama enjoyed one of its greatest growth periods in business expansion. In 1989, Joe was named executive vice president of the Southern Co., one of the Nation's largest investor-owned utilities. It serves over 6 million people, and is the parent company of Alabama Power, Georgia Power, Gulf Power, Mississippi Power, and Savannah Electric.

In 1991, Joe became president and chief executive officer of Southern Nuclear Operating Co., a subsidiary of the Southern Co. formed to provide operating and management expertise in the nuclear energy industry. It was under the expert management and diligent leadership of Joe Farley that the nuclear energy industry made its most significant gains in its 40-year history.

Joe Farley has long recognized the need for safe storage for spent nuclear fuel and decommissioned reactors. An example of his concern for both energy and the environment were the successful efforts to break the impasse between the Federal Government and the State of Nevada on the site characterization of the Yucca Mountain as a potential high-level nuclear waste repository. In August, Nevada granted the Department of Energy a water permit that will further advance the proceedings.

Joe also led the effort to restructure the Federal Government's Uranium Enrichment Program. This will, in turn, make our domestic enriched uranium more competitive on the world market.

He often testified before congressional panels whose members respected both his integrity and his enormous knowledge of the business sector; both Chambers knew of his expertise in understanding the role electric utilities play in America.

During the 102d Congress, for example, he testified before House and Senate committees examining such diverse issues as nuclear energy regulation, safety and design certification of advanced reactors, funding for advanced nuclear research, foreign uranium pricing, restructuring the Department of Energy's uranium enrichment enterprise, and decommissioning costs and high-energy waste disposal. Joe has been instrumental in developing a sound national energy policy, working with both the Congress and the White House.

Mr. President, I am proud to commend and congratulate Joseph M. Farley, an Alabama favorite son, for a job well done. His leadership in energy matters over the decades set a standard for the field that others will have to work extremely hard to match. I wish him all the best in his future endeavors.

#### TRIBUTE TO SENATOR ALAN DIXON

Mr. THURMOND. Mr. President, I rise today to pay tribute to my friend and colleague, Senator ALAN DIXON of Illinois, who will be leaving us at the end of this Congress. Senator DIXON is a man of integrity, ability, and dedication, and he will be missed, especially by this Senator.

Senator DIXON has a long and distinguished record of public service. Before his election to the Senate in 1980, he served Illinois as a police magistrate, a State representative, a State senator, State treasurer, and Secretary of State. Here in the Senate, he has been a devoted advocate for his State and our Nation.

Senator DIXON established himself early on a staunch fiscal conservative and a supporter of a strong national defense. He is known for his hard work and common sense, and I have especially enjoyed working with him on the Senate Armed Services Committee, where he chairs the Subcommittee on Readiness, Sustainability, and Support. He has also served with distinction on the Banking, Housing and Urban Affairs Committee, and the Small Business Committee.

As much as anything else, it is Senator DIXON's warm sense of humor and gentlemanly manner which have endeared him to his colleagues on both sides of the aisle. I have always found him to be a fair, just and worthy advocate for the people of Illinois and our Nation, and he is also an excellent speaker.

Mr. President, I would like to take this opportunity to commend Senator

DIXON for his fine service. I wish him and his lovely wife Joan the very best in the future.

#### THE SUPREME COURT CONFIRMATION PROCESS

Mr. HATCH. Mr. President, regrettably, the Supreme Court confirmation process has steadily deteriorated in recent years. The process has degenerated into one determined by raw politics. The use of litmus tests, blatant and subtle, is becoming entrenched. In an earlier period starting in the 1950's, conservative Senators, mostly but not always from across the aisle, occasionally asked issue and case specific questions of nominees to determine whether the nominees were too liberal. In the last few years, litmus tests on privacy, abortion, and support for racial preferences have been used to try to stop Supreme Court nominees.

Indeed, for some Senators, acceptance by a nominee of Griswold, which held that there is a right of marital privacy that encompasses the use of contraceptives, is not enough. One of my colleagues, in opposing Judge Thomas, said:

It is not good enough that a nominee begrudgingly pledges not to reverse the battles already fought and won. Rather, I am looking for a nominee's disposition with respect to the questions of personal freedom not yet framed.

First, this suggests a belief that a nominee pledges at a confirmation hearing to adhere to a prior result, especially for the rest of the nominee's tenure on the Court, rather than merely state a present opinion that he or she is free to change in a given case based on its facts, the briefs, oral argument, and independent legal research. I respectfully submit that such a belief reflects a fundamental misunderstanding of the confirmation process, the judicial process, and the importance of the independence of the judiciary.

Second, liberals seems to believe that preservation of precedents they favor is mainstream jurisprudence, but reversing them is judicial activism or rightwing, no matter how untenable the precedent may be a matter of neutral constitutional or statutory interpretation. Indeed, no matter how many inaccurate epithets are tossed at Republican administration nominees such as rightwing or ultraconservative, restraining and even reversing the judicial activism of the Warren Court is neither radical nor extreme. This is so even if I or others may agree with a particular Warren Court decision that has been characterized as an example of judicial activism. Distinguished jurists such as Justice Harlan often dissented from Warren decisions, and I know of no one who suggests he was some kind of extremist.

The notion that the Supreme Court has recently moved to the far right



cannot be taken seriously. It is ironic that many of those who claim a particular manifestation of judicial restraint is out of the mainstream could not find the mainstream if they paddled for days and days.

Third, if, in the future, each Senator imposed a litmus test based on his or her own notion of personal freedom protected by the Constitution—or some other litmus test—either the Senate will never confirm another nominee or a nominee will have to undertake what 51 Senators considers a pledge on those litmus tests. The Senate will then have proceeded either to have destroyed the independence of the Supreme Court or to have reduced the confirmation process to a charade where nominees tell Senators what they want to hear, and, once confirmed, do their duty as they see fit.

Other Senators would require a nominee to commit on the issue as to whether there is a constitutional right to an abortion. When a Senator asks the nominee "to tell us here and now whether you believe that the Constitution protects a woman's right to choose to terminate her pregnancy," the nominee is being asked to decide a principal, underlying issue in a number of cases that may come before the Supreme Court. It is irrelevant for the Senator to add, "Oh, but don't tell me how you're going to decide a particular case:" once a nominee gives an answer to the question, the nominee is well on the way to deciding particular cases which will before the court.

Nominees have been asked detailed questions about the establishment and free exercise clauses of the first amendment, and asked to comment on recent, closely divided cases. Some seem to suggest that if a nominee does not answer some questions on certain issues, he or she is unlikely to be confirmed. And when a nominee declines to answer a question concerning an issue that may be the next candidate for litmus test status, such as on abortion, he or she is unfairly accused of inconsistency on his or her responsiveness. But, it is not the nominee who is at fault; it is a highly politicized process out of control.

In his confirmation hearings, Justice Thurgood Marshall repeatedly refused to answer questions asked by Senator McClellan, a Democrat, regarding *Miranda* versus *Arizona* and *Escobedo* versus *Illinois*. These were two important and controversial 5-4 Supreme Court decisions favoring criminal suspects at the expense of the police. [Hearings before the Committee on the Judiciary, U.S. Senate, on the nomination of Thurgood Marshall, of New York, to be an Associate Justice of the Supreme Court of the United States, 90th Cong., 1st Sess. at 8-14 (1967).] In response to a direct question concerning *Miranda* Justice Marshall replied: "I am not saying whether I disagree with [Mi-

randall] or not, because I am going to be called upon to pass upon it. There is no question about it, Senator. These cases are coming to the Supreme Court." [Id. at 9.]

Later, after he repeatedly refused to answer questions posed by Senator Ervin, again a Democrat, regarding the fifth amendment, Justice Marshall asserted. "I do not think you want me to be in the position of giving you a statement on the fifth amendment, and then, if I am confirmed and sit on the Court, when a fifth amendment case comes up, I will have to disqualify myself. \* \* \* But I think it would be wrong for me to give that opinion at this time. When the case comes before the Court, that will be the time." Id. at 53.

Justice Marshall summarized his position thus: "My position is, which in every hearing I have gone over is the same, that a person who is up for confirmation for Justice of the Supreme Court deems it inappropriate to comment on matters which will come before him as a Justice." [Id. at 55.]

Justice Marshall was a well-known liberal at the time of his appointment. He had a track record. Liberals defended his right not to respond to the Democratic Senators and still merit confirmation. Last year, some liberals sought to hold a moderate to conservative black nominee to a higher standard than they wanted applied to the liberal Thurgood Marshall, and which was, in fact, applied to Justice Souter, a mere 2 years ago. The confirmation process has become a case of whose ox is being gored.

I might add both Justices Souter and Thomas were asked about the constitutionality of the death penalty. I believe the death penalty is constitutional. But others do not, including respected jurists such as former Justices Brennan and Marshall. It is an issue that will certainly come up during the Supreme Court tenure of these two recent nominees. They should not have had to answer that question. I certainly hope no one believes that the justices are not free to change their minds, after hearing the facts of a case, and reviewing the precedents and other relevant legal materials. What, then, is the point, of seeking assurances on this or any other issue?

Chairman BIDEN conducted the Souter and Thomas hearings in his usual fair manner. But the current confirmation process was distorted by the frenzied reactions of special interest groups. Political pressure is brought to bear on Senators to judge a nominee based on how that nominee is expected to vote on issues of concern to the group—especially by proponents of abortion and reverse discrimination. They have every right to do so, but it ill serves the American people.

The long delay before the nominee's hearings begin gives full opportunity

for what I have described in an earlier confirmation in the Judiciary Committee as a search and destroy mission against a nominee. His or her personal life is deeply probed. The church he or she attends is scrutinized. Prior writings and speeches are not only scrutinized but quoted out of context and the quotes are ballyhooed to the media as if they are major evidence against a nominee. Judge Thomas had a single, throwaway line in a speech referring to Lewis Lehrman's article on natural law and abortion, and suddenly the nominee is said to be predisposed on *Roe* versus *Wade*.

Justice Thomas' writings on natural law were exaggerated and distorted, as part of a scare campaign to make the nominee appear to have strange views. His record of public service was distorted, with misleading excerpts from public documents and misrepresentations of the facts of particular events fed to the news media.

Voluminous document requests are dumped on the nominee. Media campaigns are cranked up.

All the while, the nominee is constrained to be silent before the hearings begin in deference to the Judiciary Committee. Knowing the recent history of these nominations, I cannot fault the Bush administration for mounting a major effort to assure a fair portrayal of the nominee in the media.

At the hearings, opponents of recent nominees engaged in a race to the cameras and microphones. They jockeyed for the catchiest sound bites in order to manufacture fear in the public about the nominee. This, in turn, necessitated an organized effort by supporters of the nominee in a battle for access to the media.

Enormous energy is expended on combing every word the nominee has ever written, as if he is bound forever by every such word. And in the hearing itself, quotes are taken out of context and distorted. I and others correct the record, but the same distortions are repeated in the markup after the hearing and in floor statements. The nominee's assertion that earlier expressed personal policy views will not be substituted for his or her judging is ignored.

If the nominee has referred favorably, in any way, to another writer, some of my colleagues seemed to assume that all views of those writers should be attributed to the nominee. At different times during the Thomas confirmation, it seemed some of my colleagues thought Prof. Stephen Macedo, Prof. Thomas Sowell, or Lewis Lehrman was the most recent nominee to the Supreme Court.

Following the conclusion of the hearing, and apparently orchestrated to coincide with the eve of the committee vote, some of Thomas' opponents stooped so low as to make public a

nearly finished draft opinion in a pending court of appeals case on which Thomas was then sitting. This constitutes nothing less than a subversion of the judicial process itself in the desperate, ideological drive to defeat a nominee.

The confirmation process has, indeed, sunk to a low level and, unfortunately, has remained there. And all of this was before someone leaked confidential Senate information to the news media in a last-ditch effort to defeat the nominee by destroying him personally.

I might add that the process of historical revisionism is well underway regarding that episode. Some have suggested that the firestorm over Professor Hill's charges was ignited by disgust over Republican questioning of Professor Hill and Justice Thomas. The record rebuts that specious claim. Indeed, most Americans sided with Justice Thomas after hearing the testimony. Further, my mail reflects a great deal of consternation over what was done to Justice Thomas during the confirmation process.

The failure of the second round of hearings to sink the Thomas nomination is no excuse to point fingers elsewhere when the American people register their concern about Congress.

Moreover, if we are going to revise committee confirmation processes, I have a suggestion for consideration. The Judiciary Committee, which routinely retains outside consultants to comb a nominee's record and guide senatorial questioning, ought to provide funds to nominees to obtain counsel to assist them when their character and integrity are impugned. The interests of the administration are not coextensive with those of any nominee under the kinds of attacks we have seen in recent years.

I have great respect for Senators WARREN RUDMAN and JOHN DANFORTH. The aid they each rendered their friend and former employee, David Souter and Clarence Thomas, respectively, has been appropriate and helpful. And I mean no disrespect to either Senator when I ask: Are the only nominees in the future able to win confirmation ones with respected patrons in the Senate? Must a nominee have battalions of former and current employees at his prior places of employment, a U.S. Senator working full time, and others mounting a major effort to counter the distortions of his or her opponents?

I am also disturbed that some of Justice Thomas' opponents seemed to have voted against him in significant part because of other Justices who are presently on the Supreme Court. I take it this is some form of guilt by anticipated association in the minds of these particular opponents.

Moreover, I respectfully submit, using a pending nomination to lay down a marker to the President with respect to future nominations, as I be-

lieve some of my colleagues, in part, sought to do, is inappropriate and unfair to a particular nominee before the Senate. We are evaluating one nominee at a time, not current members of the Court or potential future nominees.

#### REFORM

The model nomination process I described on the Senate floor in earlier speeches during the last two Supreme Court confirmations has not been followed.

In speeches during the last 2 years, I have mentioned a distinguished task force assembled by the 20th Century Fund to consider the way the Federal judiciary is selected. Former New York Gov. Hugh Carey chaired the task force. It recommended, with two dissents, that:

Supreme Court nominees should no longer be expected to appear as witnesses during the Senate Judiciary Committee's hearings on their confirmation. \* \* \* The task force further recommends that the Judiciary Committee and the Senate base confirmation decisions on a nominee's written record and the testimony of legal experts as to his competence.

This would return the process more to the way it was undertaken until 1925. Until then, no Supreme Court nominee appeared before the Senate. The task force added, with one dissent:

But if nominees continue to appear before the committee, then the task force recommends that Senators should not put questions to nominees that call for answers that would indicate how they would deal with specific issues if they were confirmed.

Indeed, this reflects the manner in which the Judiciary Committee handled nominees from 1925 into the 1950's. Of course, it is a far cry from the way the committee has frequently functioned in the last 35 years.

In my view, we should question nominees only about their ethics, competence, legal ability, general view of the role of the Supreme Court in our Federal system, willingness to separate personal policy views from one's judicial decisionmaking, and independence—did the nominee make commitments on issues to get nominated or confirmed?

#### CONCLUSION

In 1990, in my additional views on the nomination of David H. Souter (Exec. Rept. 101-32), I said:

The trend begun in this committee in the mid-1950's of probing the nominee's views on controversial issues seems to have accelerated in recent years. If the trend continues, that is something I will have to bear in mind if I am here when a member of the other party sends us a Supreme Court nominee.

Unfortunately, the trend has not only continued, it has accelerated. I despair that the confirmation process for Supreme Court nominees will be reformed in any meaningful way. Given the highly politicized manner in which nominees have been treated in the last several years, it cannot be expected that Republicans will adhere to a proc-

ess under a Democratic President, should one be elected, that my friends on the other side of the aisle have all but abandoned and repudiated under the last two Republican Presidents. Of course, I am not suggesting that Republicans should or will resort to the campaign of distortions and attempted character assassination which marked the Bork and Thomas nominations. But if Republican nominees are to be quizzed on their positions on abortion, reverse discrimination, and on various other issues, I do not believe Democratic nominees can expect to escape similar scrutiny. I do not say this as a threat or with any pleasure, but just as a reflection of reality.

#### ADVICE AND CONSENT

Mr. HATCH. I wish to address briefly the advice and consent clause in Article II, Section 2 of the Constitution. Some commentators have misread the plain language of that important clause. They suggest that the Constitution mandates, or at least contemplates, that the President seek the advice of the Senate before he or she nominates someone to the Supreme Court. This is a myth gaining increasing currency.

The Framers rejected vesting the Supreme Court appointment power in both Houses of Congress or in the Senate alone. While the Constitutional Convention also rejected placing the appointment power in the President alone, the Framers adopted a compromise which left no doubt that the President has the predominant role in appointing Supreme Court Justices. Article II, Section 2 reads in relevant part: " \* \* \* he shall nominate, and by and with the advice and consent of the Senate, shall appoint \* \* \* judges of the Supreme Court \* \* \*."

The Constitution's plain language is clear: The President has sole power to nominate to the Supreme Court the person of his or her choice. Presidential nomination authority is unshared. The Senate's advice and consent duty comes into play only after the President has made a nomination to the Supreme Court.

The appointment power, thus, combines the President's sole power to nominate, with the Senate's sole power to advise and consent to the nomination. The Senate can reject or approve a nominee, and its Members can convey their reasons for that decision. The President provides the confirmed nominee with his or her commission. Indeed, even with the Senate's advice and consent role, the Constitution speaks of the appointment power as vested in the President. Moreover, the Constitution grants the President alone the power to make recess appointments—to fill up vacancies, such as those on the Supreme Court, during the Senate's recess, until the end of the Senate's next session.



Some of my colleagues have indicated that no Supreme Court nominee is worthy of confirmation unless the President has consulted the Senate in advance or picks a nominee that somehow splits the perceived difference in judicial philosophy between the Senate and the President. Indeed, remarkably, some have said they would oppose a nominee as soon as the nomination is announced in the absence of either of these two conditions, no matter how qualified or worthy the nominee.

I respectfully submit that these conditions are profoundly inconsistent with our constitutional scheme.

I might add that comparing a Presidential budget to a Presidential nomination to the Supreme Court, is, in my view, and with the greatest of respect, a reflection of this disregard for the constitutional scheme. The nomination of a Supreme Court Justice not only in textually committed to the President, it is an appointment to the highest court in a coequal branch of government.

Alexander Hamilton, in the *Federalist Papers*, wrote at some length on this very issue. I believe he confirms my view of the nomination power. In *Federalist* 66, he denied that the Senate would be biased in favor of the judges coming before them for trial on impeachment charges merely because the Senate had consented to the judges' appointment in the first place. Hamilton noted that the Senate "will merely sanction the choice of the Executive \* \* \*" during the appointment process.

Hamilton went on to describe "the nature of the agency of the Senate in the business of appointments. It will be the Office of the President to nominate and, with the advice and consent of the Senate, to appoint. There will, of course, be no exertion of choice on the part of the Senate. They may defeat one choice of the Executive, and oblige him to make another; but they cannot themselves choose—they can only ratify or reject the choice he may have made. They might even entertain a preference to some other person at the very moment they were assenting to the one proposed, because there might be no positive ground of opposition to him; and they could not be sure, if they withheld their assent that the subsequent nomination would fall upon their own favorite, or upon any other person in their estimation more meritorious than the one rejected. Thus it could hardly happen that the majority of the Senate would feel any other complacency towards the object of an appointment than such as the appearances of merit might inspire and the proofs of the want of it destroy."

In *Federalist* 76, Hamilton expanded on this point. In defending Article II, Section 2, Hamilton said, "I proceed to lay it down as a rule that one man of discernment is better fitted to analyze

and estimate the peculiar qualities adapted to particular offices than a body of men of equal or perhaps even of superior discernment."

Hamilton gives several reasons for this view: that one person will have a keener sense of duty to pick a good choice; that one person will have fewer personal attachments than a group of persons; "in every exercise of the power of appointing to offices by an assembly of men we must expect to see a full display of all the private and party likings and dislikes, partialities and antipathies, attachments and animosities, which are felt by those who compose the assembly." I might add Mr. President, that Hamilton is on target in this insight.

In responding to the contention that the President alone should have the entire appointment power, Hamilton made clear again the nature of the respective roles of the President and Senate:

But it is easy to show that every advantage to be expected from (vesting the entire appointment power in the President alone) would, in substance, be derived from the power of nomination which is proposed to be conferred upon him; while several disadvantages which might attend the absolute power of appointment in the hands of that officer would be avoided. In the act of the nomination, his judgment alone would be exercised; and as it would be his sole duty to point out the man who, with the approbation of the Senate, should fill an office, his responsibility would be as complete as if he were to make the final appointment. There can, in this view, be no difference between nominating and appointing. The same motives which would influence a proper discharge of his duty in one case would exist in the other. And as no man could be appointed but on his previous nomination, every man who might be appointed would be, in fact, his choice.

But (the President's) nomination may be overruled: This it certainly may, yet it can only be to make place for another nomination by himself. The person ultimately appointed must be the object of his preference, though perhaps not in the first degree. It is also not very probable that his nomination would often be overruled. The Senate could not be tempted by the preference they might feel to another to reject the one proposed; because they could not assure themselves that the person they might wish would be brought forward by a second or by any subsequent nomination. They would not even be certain that a future nomination would present a candidate in any degree more acceptable to them; and as their dissent might cast a kind of stigma upon the individual rejected and might have the appearance of a reflection upon the judgment of the Chief Magistrate, it is not likely that their sanction would often be refused, where there were not special and strong reasons for the refusal.

To what purpose then require the cooperation of the Senate? I answer, that the necessity of their concurrence would have a powerful, though, in general, a silent operation. It would be an excellent check upon a spirit of favoritism in the President, and would tend greatly to prevent the appointment of unfit characters from state prejudice, from family connection, from personal attachment, or from a view to popularity. And, in

addition to this, it would be an efficacious source of stability in the administration.

I believe that Alexander Hamilton's explanation of the nomination and advice and consent powers is apt and I commend it to the attention of my colleagues.

#### TRIBUTE TO SENATOR TIMOTHY WIRTH, UPON HIS RETIREMENT FROM THE U.S. SENATE

Mr. THURMOND. Mr. President, I rise today to pay tribute to my friend and colleague, Senator TIMOTHY E. WIRTH of Colorado, who is retiring from the Senate at the close of the 102d Congress, after 6 years of service.

Senator WIRTH is a native of Colorado, where his family has lived for five generations. He grew up in Denver and Jefferson Counties, and began his political career in the U.S. House of Representatives in 1974, serving 12 years there. Prior to his work in public service, Senator WIRTH was a high school teacher, and he continues to teach classes on a volunteer basis at all levels of Colorado's school system.

Elected to the Senate in November 1986, Senator WIRTH has distinguished himself as a hard worker and a strong advocate for various causes. He serves on four committees, including Armed Services; Budget; Banking, Housing, and Urban Affairs; and Energy and Natural Resources.

Mr. President, Senator WIRTH has been an able and dedicated Senator, and I have enjoyed serving with him. I wish him and his lovely wife, Wren, much future success.

#### RETIREMENT OF JOHN LIPTON

Mr. PRYOR. Mr. President, Arkansas is losing one of its stellar members of our legislature this year with the announced retirement of John Lipton of Warren, AR.

John Lipton is serving this 12th consecutive term in the Arkansas House of Representatives and is completing a term as the Speaker of the House.

Representative Lipton is cochairman of the legislative Joint Performance Committee and serves on the House Insurance and Commerce Committee, the House Public Health, Welfare and Labor Committee and the Joint Budget Committee.

Mr. Lipton chairs the Arkansas Quality Management Board, which oversees State government's quality management initiative, and is cochairman of the Correction Resources Study Commission. He is also a member of special committees studying the State Police, the State Department of Correction, and the Game and Fish Commission.

Currently cochairman of the Arkansas Advisory Council for Vocational-Technical Education, John served as an appointee of President Carter on his National Advisory Council on Vocational Education.

Mr. President, John Lipton has been a steady, yet progressive, leader in our General Assembly and he will be sorely missed. I wish him well in his future endeavors and know that his departure from the legislature does not mean his departure from positions of service to his fellow man.

I am proud to call John Lipton my friend.

#### A TRIBUTE TO SENATOR ALAN CRANSTON

Mr. THURMOND. I rise today to pay tribute to my esteemed colleague Senator ALAN CRANSTON of California, who will be retiring at the end of this session. Senator CRANSTON is a man of ability and dedication, and he has represented the State of California in the U.S. Senate for the past 24 years.

During his tenure in this body, Senator CRANSTON has served on the Senate Committees on Intelligence; Banking, Housing, and Urban Affairs; Foreign Relations; and Veterans' Affairs, where he is currently the chairman.

As chairman of the Veterans' Affairs Committee, Senator CRANSTON has supported the enactment of a wide variety of programs and benefits designed to meet the special needs of our Nation's veterans. He has demonstrated a strong commitment to veterans, and has been presented with national awards from the American Legion, the Disabled American Veterans, the Paralyzed Veterans of America, and AMVETS.

Senator CRANSTON is also a businessman, a writer/reporter, and an athlete. As a businessman, he made his mark in real estate and investment. As an athlete, Senator CRANSTON set the world record for 55-year-olds in the 100-yard dash in 1969. As a writer/reporter, Senator CRANSTON was notably sued, indirectly, by Adolf Hitler for writing a tabloid version of Hitler's book "Mein Kampf."

Mr. President, Senator ALAN CRANSTON is a man of intelligence, ability, and determination. He will be deeply missed in Washington and I wish him the very best in the future.

#### SENATOR TIM WIRTH

Mr. PRYOR. Mr. President, one of the saddest days for me in my public life was the day that I was driving in my car in south Arkansas and heard on the radio that Senator TIM WIRTH had announced his retirement from the U.S. Senate.

During the Democratic Convention in New York in July, I had occasion to address the Colorado caucus. I stated to them at that time how much TIM WIRTH would be missed. A sense of pride and affection swept the room when I mentioned his name. Not many of us in politics today can evoke that type of response from the people that elected us.

A product of the Watergate generation of Democrats in the House of Representatives, TIM WIRTH rose to the chairmanship of the Energy and Commerce Subcommittee on Telecommunications, Consumer Protection and Finance—a subcommittee which regulates everything from securities to communications, from Wall Street to cable television.

The people of Colorado promoted him to the Senate in 1986. While in the Senate, he has been recognized for his expertise on environmental issues, arguably the most knowledgeable Member of the Senate on the issue of global warming and the greenhouse effect.

What I have always found in dealing with TIM WIRTH is his openness and his sincerity. We have respected each other's opinion; we have agreed to disagree when that was necessary; and we have stood side by side on issues when we could.

I value his friendship and will miss our daily comradeship; the people of Colorado will miss his dedication, his energy and devotion; the country will miss his intellect and his integrity.

#### TRIBUTE TO SUSAN KIRKLAND

Mr. HEFLIN. Mr. President, it is with a great sense of sorrow and sadness that I rise today to pay tribute to Susan Kirkland, a truly outstanding young lady who interned in my office just this past summer. Susan, only 22 years of age, died on Sunday, September 27 after a long illness.

All Members of this body are familiar with the en masse arrival of interns on Capitol Hill at the beginning of each summer. They come here all starry-eyed about being in their Nation's Capitol, seeing all the monuments and other sites, and witnessing the Federal governmental process up close. Some are here mostly to have a good time. After all, they are young, driven, and trying to find themselves, many away from home for the first time in their lives.

Others come to learn, to leave an impact, to get a foot in the door in order to advance themselves in preparation for their futures. We enjoy their time here, for they tend to invigorate the place with a special sense of spirit and energy for those staffers and Members who might get a bit cynical at times.

Susan Kirkland was one of those interns who did indeed leave her mark. This is not really surprising, since she grew up in a rather political family I have known well for many years. The Kirklands of Andalusia AL, as a naturally political family, instilled in Susan a strong desire to meet and interact with other people; she relished meeting and learning about new people. Upon her arrival in Washington back in May, the day after her graduation from the University of Alabama, she instantly became a part of our of-

fice family. Everyone came to know her as an intelligent, bright, well-spoken, polite, southern lady, but with an air of innate curiosity and thirst for knowledge that set her apart. Something about her told us that there were many more books to read, places to see, interesting people to meet, and things to learn than she would ever have the time for, no matter how long she lived. Susan wanted to make an impact, and she did.

Susan had majored in history and minored in English and fine arts while at Alabama. She was an active member of Delta Delta Delta sorority, made the dean's list several semesters, was a member of the Cardinal Key Honor Society, Panhellenic, the Student Alumni Association, the University Singers, was active in the Student Alumni Association, and served as vice president of the history club. She was also assistant curator of the Museum of Natural History located on the Tuscaloosa campus and was a teaching assistant with the history department. Susan had studied for a time at Oxford University in England, which she always referred to as one of the highlights of her young life. Her time there, she said, opened up so many new worlds for a girl from a small town in Alabama. For someone who loved exposure to new people, ideas, cultures, and places as much as Susan did, that experience was priceless.

During her most recent illness, Susan told her mother, Jeanice, that the 5 weeks she had spent in Washington were the most fulfilling and happy time in her life. When she graduated from college, she had originally planned to attend law school, but her short time here, her mother said, gave her new direction. Being in Washington made her realize that what she really wanted to do was go to graduate school and then come back here to work in an area of government, perhaps at one of the Smithsonian museums.

I want to say a special thanks to our distinguished Senate Chaplain Dr. Halverson for the many kindnesses he expressed to Susan and her family while she was ill. I know he gave them great comfort. Susan even rallied for a while, after seeing a copy of the opening prayer he gave for her on the Senate floor.

Mr. President, it is never easy losing someone we love, and, of course, it is a cliché to say that it is harder when it is someone so young and full of promise, as Susan Kirkland was. But that is indeed the case with Susan. We can, however, be glad that she lived such a full life, and accomplished so much in her 22 years. She came to be an inspiration, not only to her younger peers, but to us older folks as well.

I would like to have inserted into the RECORD at this point "A Tribute to an Andalusian," by Caroline Jackson, who Susan lived with during her internship. It is a beautiful tribute that tells about



her time in Washington in the memorable summer of 1992.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

#### A TRIBUTE TO AN ANDALUSIAN

Delta flight 640 brought Susan Kirkland to Washington this past Mother's Day. I met her and my niece, college Tri Delt sisters, at the airport. They felt excitement over their upcoming five weeks' work in Senator Howell Heflin's office. They had told their Alabama parents not to worry. Susan, 22, had just celebrated her birthday and graduated from the University of Alabama.

Having lived here 27 years, I embraced the chance to show them around. That afternoon, we bought subway tickets to Union Station and walked to find the Senate Office Building where their work would begin the next day.

After her second work day, Susan expressed gratitude that her supervisor had given her "real work" to do. She asked me how to arrange an interview at the Smithsonian. Museum work was her career goal after a master's program to begin this fall back in Tuscaloosa.

Each day, she and my niece walked past flower vendors and George Washington's bust from their university dorm room to the subway. In the days to follow, they saw Gorbachev, heard Ted Koppel speak at the National Press Club, and helped me sell at a book fair where they met Oliver North. They heard the Ambassador to India speak at a World Affairs Council and enjoyed a picnic with friends during a Crosby Stills and Nash concert at Wolf Trap amphitheatre.

Each Thursday night, they savored the Congressional softball game, a ritual in which "Bama Bangers" challenge other Congressional staff teams.

They tried their first Indian food here and enjoyed Chinese fare before a musical production at Ford's Theatre.

While Susan learned more about Washington, she taught many around her about Alabama. On the large wall map in Senator Heflin's office, she pointed out Andalusia. New Yorkers she met here loved the sound of her town's name. She explained Andalusia's football rivalries. She talked lovingly of her family. The Seaside, Florida tee-shirt she wore reminded us of her favorite vacation site.

Susan was regal and graceful with peaceful eyes. We called her "the Breck girl" because of her shiny hair and flawless face. Alert to life, she saw her nation's capitol and Washingtonians with a sense of history, compassion and humor.

When Jeanice, her mother, came to visit on Susan's last weekend here, we drove to see Columbus' ships in the Annapolis harbor.

Susan was spunky, looking past the surgery scheduled back in Birmingham to next summer. She hoped then to return to Washington and work at a museum.

Yesterday Susan Kirkland's funeral services were held at the Andalusia Baptist Church. Her personality, values, and humor will grace the rest of our lives. If she read this tribute, she would respond as she did to every well-deserved compliment: "You're too kind."—CAROLINE JACKSON, a Washington friend.

SEPTEMBER 30, 1992.

#### SENATOR ALAN DIXON

Mr. PRYOR. Mr. President, ALAN DIXON's departure from the Senate this

year will mark the end of a career of public service that goes back to 1949 when he was elected police magistrate in Belleville, IL.

He served 20 years in the Illinois Legislature and as State treasurer and secretary of state before his election to the Senate in 1980.

ALAN DIXON has always championed the little guy. When he rises to speak in the Senate, we know that it is a cause for which he has done his homework and for which he fervently believes. His combination of wit and sarcasm have often brought debates in this body from lofty plateaus back to Earth and to just how our deliberations will affect the guy living on "Main Street."

"AL the Pal," as he has affectionately been called by an electorate that has supported him in great numbers for the better part of 40 years, has worked to help lead us out of the savings and loan mess, a thankless task at best. He is recognized for his expertise on banking, finance, trade, and securities matters.

Through his stewardship on the Armed Services Committee, ALAN DIXON has provided the leadership that has resulted in the beginnings of some serious procurement reform at the Department of Defense.

Mr. President, I am proud to call ALAN DIXON my pal and wish him well as he leaves the Senate. We thank him for his dedication and devotion to this institution.

#### TRIBUTE TO SENATOR JAKE GARN

Mr. THURMOND. Mr. President, I rise today to pay tribute to my esteemed colleague and good friend Senator JAKE GARN of Utah, who will be retiring at the end of this session. Senator GARN is a man of character, courage, compassion, and capacity, and he has done an outstanding job representing the State of Utah in the U.S. Senate for the past 18 years.

Senator GARN is a man of many talents, as his record shows. He served with distinction as a Navy pilot, achieving the rank of lieutenant, and is a retired brigadier general in the Utah Air National Guard. He has also been a successful businessman, working as an insurance executive for 8 years, and his previous public service includes stints as both city commissioner and mayor of Salt Lake City.

Probably the one thing about Senator GARN which has most captured the imagination of the public is his brief but renowned career as an astronaut. In 1985, the Senator was part of the crew on a flight of the space shuttle *Discovery*, performing various medical tests and serving as a payload specialist.

Throughout his career in the Senate, Senator GARN has been an effective representative of his State and a con-

scientious advocate for the American people. He is known for his strong adherence to conservative principles and his passionate dedication to those causes he holds dear. He is also known as a good man to have in your corner, and his colleagues on both sides of the aisle respect him for his knowledge, hard work and integrity.

During the past 18 years, Senator GARN has established himself as a proponent of a strong national defense, an opponent of wasteful spending, and one of the most eloquent and forceful spokesmen for the space program. He served as chairman of the Banking, Housing, and Urban Affairs Committee for 6 years, and is currently its ranking member. He is also a member of the Appropriations Committee, the Energy and Natural Resources Committee, and the Senate Rules Committee.

Mr. President, Senator GARN is a living example of the hard work and determination which earned his home State the title of "The Industrious State." He is a man of intelligence, ability, and principle, a true patriot, a loving husband and father, and an outstanding Senator. He will be deeply missed in Washington, especially by this Senator, and I wish him and his lovely wife Kathleen the very best in the future.

#### MORTON H. HALPERIN MOVES ON

Mr. HATCH. Mr. President, I would like to take a few minutes to pay tribute to a friend of mine, Morton H. Halperin. Mr. Halperin will be leaving his position as Director of the Washington Office of the American Civil Liberties Union on October 31 of this year, after 20 years of work for the ACLU. Morton will become a Senior Associate of the Carnegie Endowment for International Peace and will also serve as the Baker Professor in the Elliott School of International Affairs at George Washington University.

I have sometimes disagreed with the ACLU and Mort while on other occasions we have worked well together. Most recently, I was pleased to work with Mr. Halperin and others as the lead cosponsor of the Hate Crimes Statistics Act, since enacted into law, and on the Religious Freedom Restoration Act. I also wish to note that Mort and the ACLU have opposed the politically correct speech code movement on college campuses. This I greatly respect.

In all of these matters, whether we have been on the same side or opposing sides, I have found Mr. Halperin to be knowledgeable, forthright, and honest.

Mr. Halperin's long career in public service and in the public policy area as a private citizen stretches back over 30 years to his days as a student.

He joined the Defense Department as a Special Assistant for Planning to the Assistant Secretary of Defense for International Affairs from 1967 to 1969,

having taken advanced degrees in international relations. In 1967, at the age of 29, he became Deputy Assistant Secretary of Defense for International Security Affairs. He served as senior staff to the National Security Council in 1969.

These are not all of the positions Mr. Halperin has held in the public policy field, nor are they all of his accomplishments, but I do wish to mention one particular distinction. In 1985, the MacArthur Foundation awarded him a 5-year grant known as the genius award.

I wish Mort the best of luck in his future endeavors. I respect him and look forward to watching his achievements as well as his work in the future.

W.E.B. DuBois said "The cost of liberty is less than the price of repression." In my opinion, Morton Halperin has always been willing to bear and maintain the costs of liberty.

#### HIRE A VETERAN WEEK

Mr. FORD. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of House Joint Resolution 542, a joint resolution designating the week of November 8, 1992, as "Hire a Veteran Week," that the Senate proceed to its consideration; that the resolution be deemed read a third time, passed, the preamble agreed to, motion to reconsider be laid upon the table, and any statements be placed in the appropriate part of the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the joint resolution (H.J. Res 542) was deemed read a third time, and passed.

The preamble was agreed to.

Mr. AKAKA. Mr. President, I rise in strong support of House Joint Resolution 542, a joint resolution designating the week of November 8 as National Hire a Veteran Week. This legislation, introduced by Representatives GEORGE BROWN last August, is identical to Senate Joint Resolution 336, which I introduced on September 10 with Senators ADAMS, BOREN, BUMPERS, BURDICK, CONRAD, CRANSTON, DASCHLE, DECONCINI, DOLE, GLENN, INOUE, JEFFORDS, METZENBAUM, MURKOWSKI, PELL, PRESSLER, RIEGLE, ROCKEFELLER, SANFORD, SASSER, SHELBY, SIMPSON, and SPENCER.

Mr. President, the primary goal of National Hire a Veteran Week is to draw the attention of employers across the Nation to the valuable skills offered by former service persons and to educate the public about the many veterans employment programs that are currently offered by Federal, State, and local agencies. Such programs include the Veterans' Employment and Training Service, Disabled Veterans Outreach Program, National Veterans Training Institute, Federal Contractor

Program, the Job Training Partnership Act Programs for veterans, the Transition Assistance Program, and the Local Veterans Employment Representative Program. And, just a few days ago, the Senate passed the Uniformed Services Employment and Reemployment Rights Act, which makes major improvements in current veterans employment rights, and the Veterans Employment and Training Act, which would provide subsidies to veterans and employees if they participate in veterans training programs.

These programs comprise a framework through which veterans can receive job training, counseling, assistance with job searches, and information to protect their reemployment rights. They also inform employers of tax credits and other financial assistance they can receive for employing veterans and eligibility for special Job Training Partnership Act veterans funds.

Encouraging employers to hire veterans is especially important at a time when tens of thousands of service members are expected to enter the civilian job market as a result of the Persian Gulf war and post-cold-war military reductions. In fact, the Bureau of Labor Statistics reports that a staggering 991,000 veterans are currently out of work. Over the next 5 years, the armed services are expected to discharge a minimum of 400,000 military personnel and lose another 300,000 per year through attrition. In such an environment, we need to encourage employers to hire veterans, not only out of a sense of gratitude to those who served in defense of our Nation, but also out of a sense of economic self-interest.

It is an unfortunate fact that military personnel often have a difficult time finding civilian employment because employers do not realize that military experience can translate into civilian job skills. One of the primary aims of Hire a Veteran Week is to articulate the job-related qualities that many military personnel possess, such as a sense of discipline and responsibility, the ability to work independently or as part of a team; and, the ability to use or adapt to new technology.

Mr. President, veterans are not looking for charity. They have a myriad of relevant skills and resources that they can bring to the job site, if only they are afforded the opportunity. Hire a Veteran Week will help expand these opportunities by letting the general public and potential employers know that military service is one of the finest preparations for private sector employment.

#### SMALL BUSINESS RESEARCH AND DEVELOPMENT ENHANCEMENT ACT OF 1992

Mr. FORD. Mr. President, I ask unanimous consent that the Small Business

Committee be discharged from further consideration of S. 2941, relating to small business development, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2941) to provide the Administrator of the Small Business Administration continued authority to administer the Small Business Innovation Research Program, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

#### AMENDMENT NO. 3398

(Purpose: To provide for a substitute)

Mr. FORD. Mr. President, on behalf of Senator LEVIN send a substitute amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD], for Mr. LEVIN for himself and Mr. BUMPERS, proposes an amendment numbered 3398.

Mr. FORD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

#### SMALL BUSINESS INNOVATION RESEARCH (SBIR) PROGRAM

Mr. LEVIN. Mr. President, I am pleased that the Senate is about to pass a very important measure that will create jobs, increase this country's capacity for technological innovation, and boost American competitiveness in the global marketplace. I am talking about reauthorization of the Small Business Innovation Research [SBIR] Program, which was originally established in law in 1982. Senator RUDMAN, whose bill we are amending and passing today, was also the chief sponsor of that law. He and I and many of our colleagues worked very hard during 1981 and 1982 to bring an SBIR bill to the Senate floor that enjoyed wide and bipartisan support.

The amendment which I am proposing today, on behalf of myself and Senator BUMPERS, chairman of the Small Business Committee, is also the product of extensive bipartisan discussions and negotiations between the Senate and House of Representatives. S. 2941, as we are amending it, has not had to face the uphill battle that the original 1982 bill did. The SBIR program now enjoys a well-deserved reputation for success. At the hearing before my Small Business Subcommittee on Innovation, Technology and Production, there were few criticisms of the program. Instead, the hearing witnesses, correspondence, and the Federal agen-



cies, have been very supportive of this program. Even the Wall Street Journal, which is not noted for its praise of Government programs, and the General Accounting Office [GAO], which has often reported on Government programs that are failing to achieve their goals, have reported favorably on the SBIR program.

The GAO did recommend some minor changes to the program relating primarily to contracting and procedural matters to make the program run more smoothly. The amendment which Senator BUMPERS and I are proposing incorporates those suggestions as well as numerous comments from Senators RUDMAN, WOFFORD, BAUCUS, MIKULSKI, KASTEN, and many other colleagues on and off the Small Business Committee. A complete description of the bill appears in the section-by-section analysis of the substitute amendment. I ask unanimous consent that the section-by-section analysis be printed in the RECORD following my statement. I will just highlight for my colleagues a few of the major provisions of the substitute amendment which Senator BUMPERS and I are proposing.

Mr. President, the primary purpose of the bill is to reauthorize the SBIR Program until 2001, which would otherwise sunset at the end of fiscal year 1993, and to expand it. Right now, 1.25 percent of the extramural research funds of the agencies with such budgets over \$100 million is awarded to small businesses for commercializing Federal technology. This is done in three very competitive phases, the last phase being funded by the private sector or by an agency from non-SBIR funds. The bill, as amended, will double the percentage of agency extramural research funds going to SBIR by fiscal year 1997, 1.5 percent in 1993 and 1994, 2 percent in 1995 and 1996, and 2.5 percent thereafter. The total dollar amount of SBIR awards in fiscal year 1991 was \$484 million. By 1997, this amount will be approximately \$1.2 billion, and includes previously excluded Department of Defense and Department of Energy research funds.

The inclusion of these funds in this well-regarded program opens up new opportunities for small businesses formerly employed in defense work to create new commercial uses of Federal technologies. The substitute provides a new focus on technologies that are critical to our country's national and economic security. These critical technologies will get special consideration when agencies develop research topics, and agencies are encouraged to meet or exceed the current 80-percent figure of SBIR awards being made in these areas.

Taking into consideration testimony presented to the committee, we are also increasing the award ceilings of phases I and II—from \$50,000 to \$100,000 and from \$500,000 to \$750,000 respec-

tively—to stimulate even more competitive and higher quality research and development proposals. This suggestion and others were provided by Mark Clevey of MERRA, a nonprofit institution that assists Michigan companies in obtaining SBIR awards.

The substitute amendment includes a title establishing the Small Business Technology Transfer Pilot Program [STTR]. A similar program was included in the House bill, H.R. 4400, but was not part of S. 2941. The purpose of the STTR Program is to allow small businesses in conjunction with nonprofit institutions to compete for Federal research and development funds to commercialize Federal and other technology.

STTR is closely patterned after the SBIR Program in terms of its funding source and its competitive process. Five agencies—the Departments of Defense, Energy, Health and Human Services, and the National Aeronautics and Space Administration and the National Science Foundation—may allocate a small percentage of their extramural research or research and development funds to STTR awards. The percentage increases as follows: 0.05 percent in 1994, 0.1 percent in 1995, and 0.15 percent in 1996. This equates to approximately \$25 million the first year, over \$50 million the second year, and over \$75 million in the third year, depending on those agencies' future appropriations.

The STTR Program is authorized for only 3 years. The General Accounting Office will conduct a review of its success in its final year. At that point, it will be up to Congress to decide whether to continue the program. The STTR Program is designed as a pilot program because concerns have been raised about the ability of small businesses and large nonprofit institutions to work together effectively and equitably to commercialize. Various safeguards have been included to ensure that STTR funds are used in the manner for which they are intended.

Mr. President, the cold war is over, but the struggle for global economic security continues. We need the SBIR Program and others like it to ensure that we are able to compete in an increasingly complex, technology-driven world. Our major competitors have no qualms about their governments providing means to encourage innovation at small or large businesses. The SBIR Program is a tool that our country must have to out-commercialize our competitors and give our small businesses a chance to compete in the big leagues.

Finally, as I stated earlier, this substitute amendment is the product of much compromise and negotiation. It reflects the work of the Small Business Committees and Senate Armed Services Committees on both sides, and the House Science and Technology Com-

mittee. I would particularly like to recognize Congressman IKE SKELTON's efforts at shepherding the bill through the House. Also, Patty Forbes of the Senate Small Business Committee staff has been of great assistance in preparing this amendment.

Mr. President, I urge passage of the amendment in the nature of a substitute and the bill, S. 2941, the Small Business Innovation Research Program Reauthorization of 1992.

I ask unanimous consent that a section-by-section analysis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

#### SECTION-BY-SECTION ANALYSIS OF SUBSTITUTE AMENDMENT TO S. 2941

##### TITLE I

##### Section 101.—Title

The Small Business Innovation Research Program Reauthorization Act of 1992.

##### Section 102.—Findings and Purposes

Congress finds that the Small Business Innovation Research program (SBIR) has been a successful method of involving small businesses in furthering Federal research and development, encouraging technological innovation and stimulating commercialization of Federal technologies. The program has improved the nation's competitiveness and increased U.S. exports from small businesses. However, small business' share of Federal research and development funds has not significantly changed over the life of the program. Additional outreach efforts are necessary to meet the goal of the original enabling legislation to encourage socially and economically disadvantaged firms' participation in SBIR. Congress believes the SBIR program should be expanded and improved.

##### Section 103.—Amendments to the SBIR program

This section makes several changes to the Small Business Innovation Research (SBIR) program as authorized by Section 9 of the Small Business Act, which are intended to: encourage federal agencies to provide greater attention to commercialization; increase the total extramural research and development (R & D) funds allocated for SBIR and the size of individual awards made to small business; and, improve the administrative processes by which small businesses receive awards and ensure that they retain appropriate intellectual property rights and appropriate rights to perform follow-on funding agreements relating to research they developed under SBIR Phases I and II.

Subsection (a)—This subsection adds "commercial potential" as a consideration in the proposal process. SBIR evaluators may look to the following as evidence of commercial potential:

- (1) the small business' record of successfully commercializing SBIR or other research;
- (2) the existence of Phase II funding commitments from private sector or non-SBIR Federal funding sources;
- (3) the existence of Phase III follow-on commitments, which may be funding commitments or other types of substantial commitments, i.e., production agreements; and,
- (4) such other indicators of commercial potential as may be appropriate.

Though some agencies intentionally direct their programs toward proposals with greater commercial potential, insufficient atten-

tion has been paid to this aspect of the SBIR program. Federal extramural R & D funds are best spent on awards which can further individual agencies' missions and the country's economic security. Specifically, the Department of Defense could enhance its program significantly through greater attention to prospects for commercialization. Through SBIR, the Department should, to the maximum extent practicable, provide emphasis on converting the capabilities of businesses that are economically dependent on Department of Defense business to capabilities having both defense and non-defense commercial applications.

Subsection (b)—This subsection increases the percentage of Federal extramural R & D funds allocated for SBIR awards by agencies with extramural R & D budgets of more than \$100 million. The percentage will increase from 1.25% to 1.5% for fiscal years 1993 and 1994, to 2% for fiscal years 1995 and 1996, and to 2.5% in fiscal years thereafter. This subsection also prohibits the use of SBIR funding for the purpose of funding administrative costs of the program, including costs associated with salaries and expenses.

Subsection (c)—This subsection includes, in the total funds dedicated by the Department of Defense to SBIR awards, certain Department of Defense research and development activities related to operational systems development and atomic energy research, excluding the Department of Energy's nuclear weapons and naval reactors programs. This is not intended to exclude the nuclear weapons complex remediation activity budget from the total funding available to the SBIR program.

Subsection (d)—This subsection requires agencies to give special consideration to the critical technologies lists prepared by the Secretary of Defense and the Director of the Office of Science and Technology Policy when preparing general research topics lists. These lists identify technologies which are important to the Nation's national and economic security. This section is not intended to require that agencies show a preference in making awards to proposals for R & D in critical technologies areas. However, according to the Small Business Administration, nearly 80% of all awards are now made in critical technologies areas. When practicable, agencies are encouraged to maintain this level and to work to achieve a goal of 90%. Agencies are also encouraged to develop broad research topics to ensure that proposals are not limited by narrow solicitations.

Subsection (e)—This subsection requires agencies to make award payments to recipients within 12 months of the award and completion of all pertinent requirements. Payments are subject to later audit by the agencies should unallowable costs be identified subsequent to payment. Many awardees have experienced unacceptable delays in receiving full payment from federal agencies. Many awardees have also experienced delays in receiving the results of technical evaluations. To improve efficiency and enhance the quality of future proposals, the participating agencies are encouraged to respond to requests for technical evaluations in a timely and appropriate manner.

Subsection (f)—This section requires the Small Business Administration to make several modifications to its SBIR program policy directive to provide for:

(A) retention of small business' rights to SBIR project-related data for four years;

(B) continued use of transferred federal property by small businesses for two years as part of a Phase III SBIR project;

These provision—A & B—address concerns raised about fair and appropriate treatment of small business intellectual property rights. They do not prohibit the federal government from offering to purchase or otherwise negotiating and making an agreement with an SBIR awardee regarding the rights to data in less than four years.

(C) procedures to ensure that, to the extent practicable, an agency enters into follow-on, non-SBIR funding agreements with an SBIR awardee, if the agency intends to pursue the further development of technology which was the subject of that awardee's first and second phase research or research and development;

This change should help encourage SBIR agencies planning to work on a company's SBIR-developed technology after SBIR funding ends to enter into Phase III or non-SBIR funding agreements with the SBIR company. This change is intended to protect small businesses from agencies which attempt to take over a small business' research effort without adequate compensation. The General Accounting Office has recommended that descriptive procedures be developed to guide agencies wishing to conduct follow-on funding for SBIR research or research and development without fear of violating the Competition in Contracting Act's competitive procedures. Follow-on funding can include commitments for production, licensing agreements, etc.

(D) an increase to \$100,000 in the amount an agency may award for Phase I, and to \$750,000 for Phase II awards;

No increase in the award ceiling has occurred since 1982, though R & D costs have increased significantly. These ceilings may be adjusted at five year intervals to accommodate changes in economic conditions.

(E) notification to the agencies and potential SBIR applicants of the critical technologies lists;

(F) enhanced outreach to women-owned and socially and economically disadvantaged small business concerns, additional efforts to improve their performance in Phase III, and tracking of awards to these concerns;

The General Accounting Office found a relatively lower participation rate by socially and economically disadvantaged small businesses in Phase III. There may also exist a similarly lower level of participation by women-owned small businesses. However, data on the SBIR participation of such firms is not currently collected. Therefore, this bill requires the SBIR agencies and SBA to track the participation of such firms. Tracking of awards to all of these concerns, will assist the GAO and Congress in determining whether the goals of this and the original legislation have been met.

(G) technical and programmatic information to encourage agencies to develop gap-funding programs to address the delay between the Phase I award and the Phase II application and award;

Small businesses are having difficulty surviving the funding gap that occurs between the making of Phase I awards and the application for and making of Phase II awards. The Department of Energy has developed a program to assist small businesses in this regard. The SBA should consider this program and private sector alternatives when advising other agencies on how to alleviate this difficult period. The SBA and participating agencies should also consider coordinating SBIR application processes and procedures to increase uniformity among them to make applying for an SBIR award easier for small businesses.

(H) procedures to ensure that multiple SBIR award winners applying for further awards document satisfactory progress toward commercialization of the subjects for which they won previous SBIR awards in their applications for subsequent Phase I awards.

The General Accounting Office and witnesses before the Senate Small Business Committee have indicated that there may be multiple award winners that seek only to conduct research and development activities and have made little or no progress toward commercializing technology useful to the Federal Government or the private sector. Agencies should be aware of this possibility and take steps to prevent any misuse of SBIR funds. Multiple award winners are defined as small businesses that have received more than 15 Phase II awards during the five years immediately prior to the submission of an SBIR proposal. In their proposals for future Phase I awards, they will be required to demonstrate their success in securing Phase III funding as a result of work done under previous Phase II awards.

(I) collection of agency data for use by the General Accounting Office in completing reports required by this Act.

Subsection (g)—This subsection eliminates the surveying and reporting responsibilities of the Office of Science and Technology Policy. These responsibilities were not being performed and the program was able to function successfully without them.

Subsection (h)—This subsection requires participating agencies to provide written justification of a quarterly basis, whenever an SBIR award is made for a solicitation topic that received only one proposal. This is intended to provide an opportunity for the Administration and the Congress to identify unwarranted sole-sourcing of SBIR awards in a timely fashion. SBA and the participating agencies should improve the timeliness of the publication of the annual report required by subsection (g)(8) of Section 9 of the Small Business Act. The agencies are also required to include in their annual report an accounting of all multiple award winners' receipt of further awards and of the number and dollar amount of awards made under critical technologies topics.

Subsection (i)—This section requires the participating agencies to inform each SBIR awardee of the expenses of the awardee that will be allowable under the funding agreement.

#### Section 104.—Extension of SBIR program

This section extends authorization for the SBIR program until October 1, 2000, the beginning of fiscal year 2001.

#### Section 105.—Report of Comptroller General

This section directs the Comptroller General to provide a report to Congress not later than March 31, 1996, on the success of the federal agencies' SBIR programs in meeting the requirements of this Act and the goals of section 9(f) of the Small Business Act, including the extent to which they promote the participation of socially and economically disadvantaged small business concerns. The report will review federal agencies' methods for promoting commercialization through this program, including to what extent they promote the development of critical technologies.

The report will also include: a) an analysis of awards made when a program solicitation receives only 1 proposal; b) an analysis of the impact of agency application reviews and funding cycles on awardees' financial status and ability to commercialize, with particu-



lar attention to gaps in SBIR funding between the first and second phases; c) an analysis of multiple award winners' success in commercializing SBIR research or research and development; d) an analysis of the effectiveness of the new program authorized in section 301, which authorizes the agencies to provide discretionary technical assistance to SBIR awardees; and, e) recommendations to Congress for tracking the extent to which foreign firms or U.S. firms with substantial foreign ownership benefit from technology or products developed as a direct result of SBIR research or research and development.

*Section 106.—Department of Defense Recommendation*

The Secretary of the Department of Defense shall provide a recommendation to Congress on the effect of the increase in the SBIR percentage on the quality of research or research and development in 1996, and whether or not a further increase in the percentage to 2.5% will adversely affect the quality of research or research and development. This recommendation does not halt the increase to 2.5%, unless Congress acts to do so.

**TITLE II**

*Section 201.—Title*

The Small Business Technology Transfer Act of 1992.

*Section 202.—Establishment of Small Business Technology Transfer Pilot Program (STTR)*

Subsection (a)—This subsection creates the pilot STTR program and establishes it as a responsibility of the Small Business Administration.

Subsection (b)—This subsection defines the STTR program and models it after the SBIR format, including the first and second phases, and the review of scientific, technical and commercial merit. Under STTR however, proposals responding to agency solicitation can only be made by cooperative research and development arrangements between small business concerns and non-profit research institutions or small business concerns and federally funded research and development centers (FFRDCs). In these arrangements, not less than 40% of the work must be performed by the small business concern, and not less than 30% by the non-profit research institution or the FFRDC. A non-profit research institution means an organization owned and operated exclusively for scientific or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual. "Non-profit research institution" includes FFRDCs for the purposes of this Act. Federal funded research and development centers' operations and responsibilities are described in the Federal Acquisition Regulations (35.017) and a master list of FFRDCs is maintained by the National Science Foundation.

Subsection (c)—This subsection adds a new subsection (n) to Section 9 of the Small Business Act and authorizes funding for agencies participating in the Small Business Technology Transfer Research (STTR) program. The STTR program is a 3 year pilot program intended to foster technology transfer from universities, FFRDCs, and other non-profit research institutions to the private sector through work with small businesses.

(1) Agencies with an extramural research or research and development budget over \$1 billion (the Department of Defense, the Department of Energy, the National Science Foundation, the Department of Health and Human Services, and the National Aeronautics and Space Administration) may ex-

pend .05% of that budget on STTR awards for fiscal 1994, .1% in 1995, and .15% in 1996.

(2) None of the STTR funding is available for costs associated with agency salaries or expenses or, in the case of non-profit institutions, federally funded research and development centers, or small businesses, none of the STTR funding is available for costs associated with salaries, expenses or administrative overhead, except those allowable direct or indirect costs specifically related to STTR work.

(3) Funding agreements with small business concerns for research or research and development which result from competitive or single course selections other than an STTR program shall not be counted toward meeting the percentage goals in paragraph (1).

(4) The General Accounting Office will submit a report on the STTR program by March 31, 1996. The report will provide GAO's assessment of the quality of research performed under the STTR program, of STTR's effect on the performance of agencies' research programs, and the effect, if any, on the SBIR program. The report will include GAO's assessment of the commercial potential of research conducted under the STTR program, if enough information is available.

A new subsection (o) is added to Section 9 of the Small Business Act that outlines each agency's responsibility under the new STTR program in very similar form and format to those applicable to the SBIR program as amended by this legislation.

However, there are three significant additional responsibilities for agencies participating in the STTR program. One, agencies must develop a model agreement that will allocate intellectual property rights between small business concerns and research institutions. Two, agencies must develop procedures to ensure that recipients of STTR awards are in fact small business in good standing, and in compliance with law and regulations governing the definition of the term small business concern. The small businesses must maintain management and control of the STTR funding agreement. Third, to the extent possible, agencies must develop procedures to ensure that federally funded research and development centers are free of conflicts of interest and do not use special access to agency information or personnel to obtain STTR awards. These provisions are included to protect the small business STTR participants because of concerns that university and large non-profit research institutions would have the advantages of scale and experience in developing such agreements, and managing such projects, which could potentially overwhelm small businesses.

A new subsection (p) is added to Section 9 of the Small Business Act requiring the SBA to issue an STTR policy directive substantially similar to the modified SBIR policy directive that is required by this legislation. This includes, among other things, the ceiling on the size of the awards for Phase I at \$100,000. But, Phase II awards are capped at \$500,000.

**TITLE III**

*Miscellaneous and technical amendments*

*Section 301.—Discretionary Technical Assistance to SBIR Awardees.*

Section 301 adds a new subsection (q) to section 9 of the Small Business Act and authorizes agencies, on a discretionary basis, to provide technical assistance to Phase I recipients. The purpose of the subsection is to improve the technical quality of SBIR research to meet agency needs and to improve

the rate of commercialization by recipient firms—the two principal goals of the SBIR program.

The provision suggests two features that the technical assistance might include: access to technical experts; access to technical literature. Evidence from at least one state-sponsored program suggests that providing access to a network of scientists and engineers, as well as on-line access to a database of technical and business information, can substantially improve the performance of small technology firms, including SBIR recipients.

To provide the technical assistance, each agency will be permitted to select one vendor annually through a competitive process, based on the vendor's ability to help small businesses improve research and commercialize products. Agencies may select the same, or a different, vendor each year.

Assistance during the first phase may be up to a value of \$4,000 in addition to the amount of a recipient's award, to be paid from agencies' SBIR budgets. Agencies may allow second phase recipients to purchase such technical assistance only by utilizing funds already provided within recipients' research awards.

Provisions of Section 105(a)(2)(B) instruct the General Accounting Office to examine Section 301 activities after a period of four years. The GAO will focus on:

- (1) the extent to which each SBIR agency has implemented this program and to which the program has improved agency research;
- (2) the program's contribution to companies' ability to commercialize the products of their research;
- (3) the cost of the program and the average cost per company; and
- (4) the extent to which SBIR companies continue to use the service after completion of the program.

*Section 302.—Extension of the Technology Transfer Demonstration Program*

This section extends for two years the Small Business Technology Transfer program, authorized by section 231 of the Small Business Administration Reauthorization and Amendments Act of 1990 (15 U.S.C. 648 note), which would otherwise expire in fiscal year 1993. No money has been appropriated yet for the program, which is intended to use a group of community colleges to facilitate small business efforts to adopt new technologies, particularly advanced manufacturing practices.

*Section 303.—Reporting Requirements.*

Subsection (a) would eliminate a Small Business Administration report to the Congress relating to subcontracting plans. Under Section 8(d) of the Small Business Act, government prime contractors (and major subcontractors) are required to negotiate plans for subcontracting with small business concerns and disadvantaged small business concerns, if the prime contract (or subcontract) exceeds statutorily specified dollar thresholds. The negotiation of specific goals for individual subcontracting plans is the responsibility of the contracting officer. Standards for determining the adequacy of proposed goals is addressed in statute and implementing regulations. Goals negotiated by the contracting officer and the contractor are subject to review by SBA representatives.

In the event the subcontracting goals negotiated by the contracting officer are deemed to be inadequate, they may be appealed. The final decision regarding the adequacy of the subcontracting goals negotiated by the contracting officer is made by the

agency conducting the procurement. The report being eliminated requires SBA to annually provide to the Congress a listing of the subcontracting plans in which SBA disagrees with the final determination of the agency regarding the adequacy of the negotiated subcontracting goals. The report categorizes the bases of SBA objections in very broad categories. Although this reporting requirement has been in place since 1978, in practice, it has not proved to be an effective tool in fostering maximum implementation of the subcontracting program.

Subsection (b) clarifies a reporting requirement relating to purchases made from Federal Prison Industries (FPI) by the various executive agencies. Under 4124(c) of title 18, United States Code, each executive agency is required to report its purchases from FPI to the Government-wide Federal Procurement Data System (FPDS), authorized by Section 6(d)(4) of the Office of Federal Procurement Act. The statutory modification makes clear that such FPDS reporting regarding purchases from FPI shall be undertaken in the same manner as the reporting of other purchases. Specifically, purchases below the \$25,000 small purchase threshold may be reported in a summary manner, while those in excess of the small purchase threshold will continue to be reported on the Standard Form 279, which provide more information.

#### Section 304.—Small Business Institutes.

This section amends section 8(b)(1) of the Small Business Act to add a new subparagraph (E) which authorizes the Small Business Administration to fund Small Business Institutes, at any public or private institution of higher education through grant, contract or cooperative agreement. Small Business Institutes have been operating successfully since 1972 by using college and university students to provide business counseling and other assistance to small business concerns. The students receive college or university credit in exchange for this work.

#### Section 305.—Additional SBIR and STTR Provisions

This section adds a new subsection (r) to section 9 of the Small Business Act to make clear that, notwithstanding the requirements of the Competition in Contracting Act, a Federal agency participating in the SBIR program may enter into a Phase III funding agreement with an SBIR company for additional work to be performed during or following the company's Phase II award without additional competition. The competition for Phase II awards satisfies any competition requirement of the Competition in Contracting Act.

In addition, this section requires each SBIR and STTR agreement to include a provision which sets for the respective rights of the United States and the small business concern with respect to intellectual property and follow-on research.

#### Section 306.—Sense of the Congress Concerning American-made Equipment and Products.

This section provides the sense of the Congress that SBIR awardees should purchase American-made equipment and products whenever possible if such purchase is consistent with the goals of the SBIR program.

#### Section 307.—Technical Corrections.

Subsection (a) makes a technical correction to section 714(b)(4) (the surveying and mapping section) of the Small Business Competitiveness Demonstration Program Act of 1988.

Subsections (b) and (c) of section 307 amend section 7(m) of the Small Business

Act to permit the Small Business Administration to carry forward from fiscal year 1992 to fiscal year 1993 its unexpended authority to establish new microloan programs.

Subsection (d) of this section restores the term "private" to the term community development corporation within the definition of intermediary contained in section 7(m) of the Small Business Act.

Subsection (e) amends section 5(f) of the Small Business Act to clarify cross-references contained in paragraph (4); conflicts of interest in the operation of the program; and to protect the small business with respect to intellectual property rights and follow-on contract opportunities.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3398) was agreed to.

Mr. BUMPERS. Mr. President, today, we have the opportunity to reauthorize a program that has been showered with compliments by both the small business community and the participating Federal agencies. The Small Business Innovation Research [SBIR] Program, which was initially authorized by the Small Business Innovation Development Act in 1982, resulted from the efforts of the Senator from New Hampshire [Mr. RUDMAN]. The program was based on a successful pilot program at the National Science Foundation and the recommendations from the 1990 White House Conference on Small Business.

The concept is simple: Emphasize the benefits of technological innovation and the ability of small businesses to transform research and development results into new products. The implementation was even more practical. Each executive agency that has an extramural research or research and development budget of \$100 million annually is required to reserve not less than 1.25 percent of that budget for the SBIR Program. To set the program in motion, the agencies issue solicitations that list and describe the topics to be addressed by the small businesses and invite the small businesses to submit proposals based on those topics.

The program itself has a three-tier structure. The first phase is designed to determine the scientific and technical merit of the proposed idea. The second phase is designed to further develop the idea into a working model. The third phase is, at least in my assessment, the most important part of this program. It says that, where appropriate, the company should pursue commercial applications of the research which may also include non-SBIR, Government-funded production contracts with a Federal agency for the products intended for Government use. It is important to note that not all phase I awardees receive phase II awards. The small businesses must show that there is actual merit and feasibility with their proposals; nothing is certain. A comprehensive 1992 GAO study illustrates that the goal of

private-sector commercialization is being met by most businesses contracted with Federal agencies; however, it criticizes the Department of Defense for lacking in the commercialization area (GAO/RCED-92-37).

Mr. President, it is not often that we can stand here and sing the praises of a successful Federal program. The SBIR Program has established itself as one of the most effective technology programs in the Federal Government. It has earned the respect of scientists and engineers in the Federal Government and small businesses across the Nation. Inc. magazine has called SBIR "the most important piece of small business legislation yet enacted in our lifetime." Likewise, the SBIR Program has been a major stimulus to technological innovation which fuels economic growth, while at the same time satisfying the Federal Government's research and development needs.

In testimony before the Senate Small Business Committee, I believe the statement by the National Science Foundation's Division Director for Industrial Science and Technology Innovation is indicative of the views of the Federal agencies with regard to the SBIR Program:

The accomplishments of the program to date indicate that the SBIR Program at the Foundation has met the goals of the legislation. We believe that the three-phased SBIR Program is a very effective method for converting research into technology for the market place. Research quality has been high. New products and processes have reached the market and enhanced the economic performance of American industry.

Not surprisingly, the small business community has rallied behind the SBIR Program and has supported its expansion. Again, in Senate testimony, a representative from a Michigan based nonprofit association of R&D businesses typified the views of small businesses:

Overall, SBIR helps to improve the U.S. economy by spurring technological innovation, fostering economic growth, and improving productivity. The small firms today help make America competitive in the world—that's a fact. It is [the work of small businesses] that develops new technologies, products and processes critical to the economy and the quality of life in the United States.

Mr. President, this program not only needs to be reauthorized, it needs to be expanded. Because of its funding mechanism, even in its expanded form, the SBIR Program does not increase the deficit. The current SBIR Program is scheduled to sunset on October 1, 1993. To that end, on the House side, Congressman IKE SKELTON took the lead on the SBIR bill. His tireless efforts resulted in H.R. 4400, which passed the House in mid-August. H.R. 4400 is substantially similar to our committee substitute. Congressman SKELTON is to be commended for his leadership with respect to this small business program.

On the Senate side, both Senator LEVIN, who chairs the Small Business



Subcommittee on Innovation, Productivity and Technology, and Senator RUDMAN, have been real leaders on the SBIR reauthorizing bill. Senator RUDMAN's bill, S. 2941, has been used as a working model to reauthorize the program. Senator LEVIN prepared the committee substitute to S. 2941, which I now offer, and with which Senator RUDMAN is in complete agreement.

Indeed, this committee substitute builds upon the successes of the SBIR Program and addresses the concerns raised by the GAO study. Primarily it would phase in an increase in the set-aside percentage from 1.25 percent in fiscal year 1992 to 2.5 percent for fiscal years after 1995. The substitute would also increase the ceiling for phase I awards from \$50,000 to \$100,000, and phase II awards from \$500,000 to \$750,000.

Much of the 1992 GAO study commented on the success rate of commercialization by small businesses. The GAO discovered from those businesses responding to its survey that approximately one-third of phase II awardees were successful in commercialization. Even though this is an impressive figure, more emphasis needs to be placed on commercialization. This reauthorization bill outlines criteria where agency evaluators can consider commercial potential when making SBIR awards. Commercialization, after all, is an important goal of the SBIR Program.

Finally, recognizing the significance of other research and development organizations, this reauthorization proposal would also establish a pilot Small Business Technology Transfer [STTR] Program. This 3-year pilot program is modeled much after the SBIR Program, but with separate percentages set aside. Its purpose is to facilitate cooperative research between small businesses and nonprofit research institutions or small businesses and federally funded research and development centers [FFRDC]. Agencies with extramural research or research and development budgets of \$1 billion are authorized to set aside 0.05 percent of that budget for STTR awards for fiscal year 1994. This percentage is phased in at 0.5 percent increments through fiscal year 1996.

I urge all Senators to support the substitute amendment and the bill.

Mr. RUDMAN. Mr. President, I am very pleased to rise in support of S. 2941, the reauthorization of the Small Business Innovation and Research Program [SBIR]. I would like to thank Senator LEVIN, chairman of the Subcommittee on Innovation, Technology, and Productivity, for his assistance with this legislation. In addition, I would also like to thank the chairman and ranking Republican of the Small Business Committee, Senators BUMPERS and KASTEN, for their efforts to get this legislation passed in a timely manner.

The SBIR Program is one of the most successful small business programs in existence today. The legislation to create this program was the second measure I introduced upon coming to the Senate in 1981. I was pleased to see it enacted into law in 1982 and reauthorized in 1986. As I prepare to end my second term and career in the Senate, I am proud to point to the SBIR Program as one of my greatest legislative contributions.

The SBIR Program is scheduled to expire on October 1, 1993. By reauthorizing SBIR prior to the end of the 102d session, Congress will ensure the continuity of a program which is vital to the future of small business innovation and competitiveness.

Today, this body will consider a committee substitute to S. 2941, legislation which I offered this past July. I have worked with the Small Business Committee in developing the substitute which I believe makes a few changes that will serve to strengthen the program in the long run. This includes increased outreach to socially and economically disadvantaged firms and greater protection for small business intellectual property rights. In addition, the efforts of the House Committees on Small Business, Armed Services, and Science and Technology were crucial to developing a bipartisan consensus on the increased level of funding for the program.

Mr. President, I thank my colleagues for their past and present support of this important program, and I yield the floor.

Mr. HATFIELD. Mr. President, 3 months ago to this day, I joined my good friend from New Hampshire, Senator RUDMAN, in his effort to secure the reauthorization of the Small Business Innovation Research [SBIR] Program. Today, I rise again as this legislation passes the Senate to complement the Senator from New Hampshire and his dedicated staff for their tremendous efforts on behalf of this worthy program. In my opinion, he should regard passage of this legislation as one of the outstanding achievements of his illustrious career in this body.

I would also like to thank my good friend from Michigan, Senator LEVIN, for taking up this worthy cause. This legislation was introduced quite late in the legislative year, and Senator LEVIN, in his capacity as chairman of the Small Business Committee's Subcommittee on Innovation, Technology and Productivity, demonstrated great leadership in shepherding this legislation through the Senate.

As a cosponsor of the legislation introduced by Senator RUDMAN in 1982, I have been proud to watch this program evolve. I know that the genius of the SBIR Program lies in its recognition that small businesses represent our greatest, largely untapped source of innovators and productivity.

Oregon, with more small businesses per capital than any other State, is truly the Small Business State. In Oregon, 9 out of 10 businesses are small businesses. Small businesses are the backbone of Oregon's economy today, and they are the hope for its economy tomorrow. For example, of the 44,929 jobs created in Oregon between 1984 and 1988, small businesses created 125 percent, large firms having lost jobs.

Even though it is small, as Federal programs go, SBIR has shown unexpected success in all areas. My own State of Oregon has seen many productive developments as a result of the SBIR Program. Oregon has also been the beneficiary of the SBIR Program's investment in innovation.

Mr. WELLSTONE. Mr. President, the Small Business Innovation Research [SBIR] Program has become one of the most successful small business programs in the Federal Government. It is one of our most effective technology policy programs. I am extremely pleased that we are about to reauthorize SBIR through the remainder of this decade, as well as to provide for its expansion.

I would like to thank my friends Senator BUMPERS, the chairman of the Small Business Committee, and Senator LEVIN, chair of the Subcommittee on Innovation, Technology and Productivity, for their stewardship of this bill. And I thank my colleagues on the Small Business Committee for their cooperation concerning an innovative new provision, included in the program for the first time with this reauthorization, which I will describe later in my statement.

The SBIR Program's goals are to strengthen the role of small, high-tech companies in federally funded research, and to promote innovation and commercialization through that research. I consider this area of economic policy—the commercialization of high-technology research—to be key to our economic future.

We know that smaller firms are generating most of this country's new ideas. They also are generating most of our new products and jobs in the technology area. That is certainly true in my State, even though several large technology companies are headquartered there, as well. Nurturing and promoting our small-firm, high-technology sector is crucial to the health and international competitiveness of the American economy as we move into the new century.

The SBIR Program has worked extremely well. Separate reports published in the past year by the Small Business Administration [SBA] and General Accounting Office [GAO] each document its success according to several measures. On top of performing research aimed at gaining what Federal agencies consider to be important knowledge in its own right, companies

also are turning that research into commercially useful products and processes. The SBA found that one-fourth of SBIR companies sell products based on their federally funded research within 4 years.

I think the success of one Minnesota company is an excellent illustration of the program's worth. Data Sciences of Roseville, MN, has developed, with the help of several SBIR research contracts over a period beginning in 1983, important new products for the biomedical testing market. In fact, the Innovation Development Institute honored Data Sciences last year for its work in developing socially significant technology. The company makes implantable electronic devices that make animal testing more humane and more reliable. Thanks to SBIR, Data Sciences has grown from two individuals working in their spare time into a company with 40 employees and \$2 million a year in sales. There are many other similar examples in Minnesota and across the country.

SBIR is broadly supported in Minnesota. The State itself, in cooperation with the SBA's Small Business Development Center Program, funds a non-profit agency which specializes in matching small technology companies with SBIR research projects. That agency, called Minnesota Project Innovation, has taken Minnesota from a position of being 38th among States in attracting SBIR projects in 1983, to No. 15 in 1990. Minnesota companies were awarded 55 research contracts worth a total of nearly \$8 million from Federal agencies through the SBIR Program in 1990. In 1991, Minnesota firms were awarded nearly \$7 million through 51 contracts.

I am particularly gratified that this reauthorization will include an important innovation to the SBIR Program. Evidence suggests that this innovation can substantially improve the quality of SBIR companies' research, and could significantly boost the capacity of SBIR companies to commercialize the results of their research. The provision is based on the successful experience of another State-sponsored program in my State, Minnesota Project Outreach [MPO]. I am pleased that my colleagues have agreed to this improvement.

MPO currently provides comprehensive information services to small businesses and entrepreneurs in Minnesota to aid in developing and marketing new products and processes. In just over 2 years of operation, MPO's service has achieved remarkable results for Minnesota companies, documented in a report prepared by the Industrial Technology Institute and by a survey conducted by staff of the House Small Business Committee. We have conducted further informal interviews with owners of Minnesota technology companies participating in both MPO

and the Federal SBIR Program, as well as with administrators of MPO and Minnesota Project Innovation. These interviews indicate great promise and enthusiastic support for the idea of combining the two successful program ideas—the Federal SBIR Program and the State-sponsored MPO concept—as a significant step forward in promoting technology transfer.

The new provision is discretionary for Federal agencies. I hope the agencies participating in SBIR will avail themselves of it. The experience of Minnesota Project Outreach suggests that technical assistance, such as access to a network of scientists and engineers, as well as on-line access to a database of technical and business information, can greatly enhance companies' performance.

SBIR is an underappreciated success story in American industrial and technology policy. I am convinced it will prove invaluable to our economic success in the years ahead.

Mr. KASTEN. Mr. President, I rise today in strong support of S. 2941, the Small Business Research and Development Enhancement Act of 1992, a bill which reauthorizes the Small Business Administration's SBIR Program.

I would like to thank the distinguished Senator from New Hampshire [Mr. RUDMAN] for his leadership in strengthening the SBIR Program. I would also like to commend the chairman of the Small Business Committee, Senators DALE BUMPERS, and CARL LEVIN for bringing this substitute amendment to the floor of the Senate.

The SBIR Program provides small businesses with Federal research dollars to research and develop innovative ideas, new products, and new technological advancements that are essential to America's economic future. Without the SBIR Program, many small business entrepreneurs could not afford to conduct such research.

America's support for research and development is needed now more than ever because of dramatic increases in global competition in high-technology industries. Technology does not stand still. In order to be the world's economic leader tomorrow, America must invest in R&D to foster new technological advancements today.

In 1982, Senator RUDMAN sponsored legislation which created the SBIR Program. It was considered a forward-looking piece of legislation designed to strengthen the technological capacity of the private sector. Since then, the SBIR Program has proven its effectiveness by sparking increased private sector involvement in developing new technologies.

Under S. 2941, the SBIR program will be extended another 7 years through October 2000. Policy directives for the Small Business Administration [SBA] have been expanded to encourage greater participation by both minority

and women small business entrepreneurs.

The bill would also require the Federal agencies to give special consideration, when practicable, to the list of critical technologies designated annually by the Secretary of Defense and the Office of Science and Technology Policy.

The legislation increases the percentage allocated from the extramural R&D budgets of the participating Federal agencies from a current 1.25 to 2.5 percent. This percentage increase is needed to adjust for the dramatic rise in R&D costs over the last decade. The increase will be implemented gradually as such: to 1.5 percent in fiscal year 1993, to 1.5 percent in fiscal year 1994 and 1995, and 2 percent in fiscal year 1996 and 2.5 percent thereafter.

The General Accounting Office would be required to report to Congress on the progress of the program with the R&D increase, before the adjustment is made to 2.5 percent. The Secretary of Defense has also been directed to provide recommendation to Congress concerning the effects of the increase on research programs at the Defense Department. The SBIR award amounts have also been modified to account for economic conditions: Phase I award has been increased to \$100,000 and phase II has been increased to \$750,000.

S. 2941 establishes a new program, the Small Business Technology Transfer [STTR] Program, to further technology transfer to the private sector through combined work between small businesses and universities, federally funded research and development centers [FFRDC's] and other nonprofit research institutions. Small business will be required to conduct a minimum of 40 percent of the work. The format of the STTR Program is designed after SBIR.

My home State of Wisconsin has several resource centers for research.

Expenditures on research and development at the University of Wisconsin in Madison exceed all other public universities across the Nation in the areas of science and engineering. STTR will help provide additional networks for rapid advancement of the technological industry through research partnerships. Five Federal agencies with extramural research budgets exceeding \$1 billion have the discretion to participate—DOD, DOE, NSF, HHS, and NASA. The agencies are authorized to expend a certain percentage of their research budgets for STTR: 0.05 percent in fiscal year 1994, 0.1 percent in fiscal year 1995 and 0.15 percent in fiscal year 1996. The GAO has been directed to report on the accomplishments of the STTR program after 3 years to determine its future needs.

The SBIR Program has opened the floodgates for a new technology to reach our Nation's businesses in today's increasingly competitive mar-



kets. We must continue to build on this success to allow for greater opportunities in the future. Higher quality of research means higher quality products to commercialize, and a higher standard of living for the American people. I am proud of Wisconsin's SBIR track record—from 1983 to 1991, 53 companies have participated in the SBIR program, receiving a total of 113 Phase I and II awards amounting to over \$5 million—quite a record!

With the importance of high-technology worldwide, I want to ensure that Wisconsin, as leader in the high-technology industry and the rest of the country, play a key role in this vital sector of our economy. The future of our Nation's economy banks on our ability to innovate and create new technology. We are experiencing some of the most fascinating changes in today's international business market. As trade barriers drop, markets expand, and exchange rates fluctuate, competition intensifies. SBIR is an exceptional tool for meeting challenges that lie ahead. At a time when our economy is in such dire need of investment, we cannot afford to pass up one that will generate such unlimited returns.

I am pleased to say that the SBIR Program shares bipartisan support in Congress. It has been one of the few Federal programs to receive praise from the administration, Congress and the small business community alike. I am glad to see the quick passage of S. 2941 and look forward to working with the future SBIR participants in Wisconsin and across the country.

Mr. BAUCUS. Mr. President, I rise today to support the Small Business Innovation Research Program Reauthorization Act of 1992.

Small businesses have played a critical role in our economy. They are responsible for employing over 100 million people in the United States. And they have made significant contributions to the research and development of new technologies and products and ensuring the future competitiveness of our Nation's industries.

The current SBIR Program requires all Federal agencies with a budget of \$100 million or more for research and development to set aside 1.25 percent of their R&D budgets for allocation to small business.

A Government report issued at the time of SBIR's inception in 1983 demonstrated that small businesses were just as successful, if not more so, than large corporations and universities at conducting high-quality innovative research. Small businesses were producing 2½ times as many innovations based on the number of employees than larger corporations. But before the SBIR was instituted, large firms were almost three times more likely to receive public funds for R&D than smaller firms.

I think that the SBIR Program has been an unqualified success. Under SBIR, many small businesses have been able to successfully participate in the research of new technology used in most sectors of our economy. And not only are these small businesses researching new technology, they are successfully developing it and bringing it to the market. It is this successful marketing of SBIR-related technologies that has made the program so competitive.

Today I rise to support the reauthorization of SBIR which increases funding levels for SBIR from 1.25 percent of all Federal agency R&D budgets of \$100 million or more to 2.5 percent of those budgets.

Let me emphasize: This legislation does not increase the amount of money these agencies will spend. It simply re-directs a larger portion of their budgets toward small businesses.

As I mentioned, the SBIR has been instrumental in bringing new technologies to the market. At a time of increasing global economic competitiveness this marketing of technology becomes vital to economic growth. But it is not the R&D of just any technology that will be important to our Nation's future, rather it is R&D in critical, key-growth technologies.

Research in areas such as superconductors, biotechnology, and optoelectronics begins a process of product development that will bear fruit in an infinite variety of new products and technologies.

Currently upward of 70 percent of the SBIR budget is dedicated to research in these areas of critical, key-growth technologies.

In addition to increasing agencies R&D funding for small businesses, the report language accompanying the bill sets an 80 percent floor on spending for key-growth technologies. Over the next 5 years, 90 percent of the SBIR budgets will be committed to key-growth technologies. Key technologies will be chosen by both the Department of Commerce and the Department of Defense.

The legislation also requires an accounting of the number of SBIR awards made to these critical technologies in order to assure that funding does not fall below the 80 percent level.

I am confident that a government commitment now to the development of growth technologies will help create the foundation upon which to continue expanding in the future.

Ms. MIKULSKI. Mr. President, I rise to support S. 2941, the Small Business Innovation Research Program Reauthorization Act. This is an extremely important bill; one that helps America continue to develop cutting-edge technology and research by focusing limited Government funds on small and creative companies.

This bill means that more small businesses will be able to focus their skills

to provide research and technology that Government agencies need. It means that the most creative small companies in Maryland and across the country have the chance to develop new products and create more high-technology jobs. And the bill goes further, establishing a pilot program that encourages businesses to cooperate with research institutions to create new products and ideas.

SBIR is one of the Government's most effective programs. It targets technology or research needed by Federal agencies, and those agencies provide funds to small businesses to help them develop what each agency needs. There is a strong and careful review process that only awards funds in phases—making sure that the Government's goals are being achieved at each step in the process, and that only the very best companies get awards.

Because of its careful review structure, SBIR has been effective at focusing dollars on the most promising small companies—helping them grow and create jobs while they perform jobs this country needs.

S. 2941 takes several steps to make the current SBIR program better. It allows for managed growth in the amount of SBIR awards performed by agencies. S. 2941 brings SBIR funding up from the current 1.25 percent of extramural R&D at the largest Federal agencies to 2 percent after 4 years. Then, after a study is done to ensure that the growth in SBIR is successful, the funding would go to 2.5 percent after 6 years, if Congress approves of the increase. The bill also requires closer attention by agencies to making awards for development of critical technologies—those that are most important to the economic future of our country. At the same time, this bill also makes sure small businesses are treated fairly and that they are paid on time, while ensuring that they work toward commercialization of their products.

There is a very important new STTR pilot program that I worked to include in this bill, and it's based on a program developed in my own State of Maryland. This Small Business Technology Transfer Research Program [STTR] will test the idea of using SBIR-type awards for small businesses that have cooperative arrangements with research institutions. It is an important step in recognizing that cooperation between businesses and researchers can lead to critical technological breakthroughs. These cooperative agreements encourage researchers to look beyond their ivory towers, and to turn their knowledge toward helping develop needed technology.

STTR is based on the Maryland Industrial Partnership Program, a successful State of Maryland technology development program with many of the same goals as SBIR. I will be looking

carefully at the STTR pilot, as I think it has great potential to contribute to the development of new, critical technologies in this country.

S. 2941 is a good bill for small businesses and a good bill for America. It targets the best high-technology small companies, and gives them a chance to develop and create skilled private sector jobs while the Government gets critical products and information it needs. I look forward to the Senate passing the SBIR reauthorization and to seeing it become law very soon.

Mr. WOFFORD. Mr. President, I strongly endorse the committee substitute to S. 2941, the Small Business Innovation Research Program Reauthorization Act and I salute Senator LEVIN, who chairs the Subcommittee on Innovation, Technology and Productivity, for his leadership in improving and expanding the SBIR Program.

When it created the Small Business Innovation Research Program in 1982, Congress sought to stimulate technological innovation, use small businesses to meet Federal research and development needs, increase private sector commercialization of innovations derived from Federal R&D, and foster and encourage participation by minority and disadvantaged persons in technological innovation. It seems to have largely achieved these purposes. A Pennsylvania SBIR awardee wrote to me that "the SBIR Program seems to be one of those rare governmental ventures that strongly multiplies its beneficial impact through the normal commercial structure of the country."

Although Pennsylvania SBIR awardees who responded to my query for their evaluation of the program generally praised it, they expressed several areas of concern. Particularly, they complained about delays in evaluating phase I awards, gaps in funding between the completion of phase I and the granting of phase II awards, and difficulties in obtaining technical evaluations of their proposals. I have worked with my colleagues on the Small Business Committee to have these concerns addressed. And I am satisfied that the legislation being adopted today addresses these concerns and improves the SBIR Program.

Mr. President, I would again like to thank my colleagues on the Small Business Committee, particularly Senators BUMPERS and LEVIN, for working with me to improve the SBIR Program.

Mr. DODD. Mr. President, I rise in strong support of S. 2941, the Small Business Research and Development Enhancement Act of 1992. I want to take this opportunity to commend Senators RUDMAN, LEVIN, and the distinguished chairman of the Small Business Committee, Senator BUMPERS, for their work on this very important measure.

Mr. President, as we develop strategies to help communities and indus-

tries overcome the burden of defense cuts, one area that must not be overlooked is small business. The reasons for this are many.

For one, small businesses are the most vulnerable to defense cuts. For another, small businesses are essential to sustained economic growth and job creation, accounting for nearly two-thirds of U.S. job growth since 1976. Finally, small businesses make up some of the most innovative and flexible components of our industrial base. In fact, Mr. President, high-technology small business is today the fastest growing sector of our economy.

Over the past decade, these small businesses have been greatly assisted by the SBIR Program. Under this program, each Federal agency is required to set aside 1.25 percent of its research budget to provide grants to small businesses that pursue innovative technologies. In 1990, this program provided 108 grants valued at a total of nearly \$20 million within the State of Connecticut alone.

The legislation before us would reauthorize this legislation until the year 2000 and also modify it in two fundamental ways. First, it would double the size of the set-aside from 1.25 to 2.5 percent by 1997. This will increase the total funding under this program to approximately \$1 billion per year.

Second, this legislation would establish a companion program, called the Small Business Technology Transfer Program. Under this program, 0.15 percent of each Federal agency research budget would be provided to small businesses that form consortia with universities or other research institutions. This program will help bring new technologies out of the laboratory and into the private sector.

Mr. President, the SBIR Program is one of the most valuable and cost-effective programs run by the Federal Government today. The legislation before us today will ensure that this important program stays on the books for years to come. I hope this measure will receive strong support from my colleagues.

Mr. PRESSLER. Mr. President, I am pleased to join my colleagues on the Small Business Committee in reporting out legislation to reauthorize the Small Business Innovation Research [SBIR] Program. The SBIR Program has proven to be a valuable tool for fostering Federal research and development through the involvement of America's small businesses.

The committee's review of the SBIR Program revealed that while the program has been successful, improvements could be made. I believe this reauthorizing legislation addresses the program's shortcomings and will further the overall success of the program.

I am particularly pleased that many South Dakota businesses have partici-

pated in the SBIR Program since its creation in 1982. It is my hope that by reauthorizing SBIR and enhancing the present program, the participation rate of businesses in rural States will be increased.

In addition to SBIR's reauthorization, this legislation creates the Small Business Technology Transfer Pilot Program [STTR]. The pilot program is designed to promote technology transfer to the private sector and requires cooperative research between small businesses and nonprofit research institutions. This pilot program will allow us to determine whether the intent of the legislation is being realized. It is the committee's hope STTR will prove to be as valuable as the SBIR Program.

Mr. LIEBERMAN. Mr. President, concern over the state of U.S. competitiveness, technological advancement, and product innovation has focused a growing attention on federally sponsored research and development.

The need for technological advancement and product innovation cannot be understated if we are to increase our level of international competitiveness. Technological advancement and product innovation can drive an economy by creating new goods: Services, processes, industries, jobs, and capital. Technological advancement can improve productivity and quality. And, technological advancement can help compensate for competitive disadvantages U.S. firms must face including comparatively higher costs of capital and labor.

While the United States remains the world leader in basic, precommercial research and in many areas of applied research—largely due to direct Federal support—we must understand that research alone does not lead to improved productivity and economic growth. Research and development is merely the first step. It is commercialization—the process of moving products from our laboratories to our factories—that leads to increased productivity, economic growth, job creation, and the ultimate rise in our standard of living. But, Mr. President, this is also where we fail.

We must, as our competitors do, aggressively support emerging technologies, so they can be transformed into commercially viable products for the international marketplace. According to the private, nongovernmental Council on Competitiveness, in 1988 the United States spent 0.2 percent of the total Federal Government R&D budget on industrial development—compared to 4.8 percent in Japan and 14.5 percent in Germany.

The U.S. Government spends approximately \$75 billion annually on federally sponsored R&D. This research generally focuses on meeting the needs of Federal agencies, but also supports work in areas where there is an identi-



fied need for basic, precommercial research, not being supported by the private sector. While, under the current system, there is no question as to the usefulness and quality of Federal R&D, the return is generally long-term, not necessarily commercially marketable, and often not evident.

With the end of the cold war, increased international competition, and economic recession, combined with the reality the Government needs to provide more and better services with less revenue, I believe we must take a hard look at federally sponsored R&D. How can we improve the economic and social return on investment from Federal research? How can we assure that our investment spills over to the commercial marketplace where technology can be sold to generate income, create jobs, and improve productivity?

Fortunately, the Small Business Innovation Research Program provides us with one excellent model. Created in 1982, SBIR not only recognizes the necessity and desirability of commercializing federally sponsored R&D, but also recognizes the important role small business plays in the economy. The fact is that small business is the principal source for product innovation and job creation.

Mr. President, SBIR is no mere set-aside. It is a forward-looking, successful, and unique approach to the acquisition of Federal R&D. I fully support its reauthorization and its expansion. The bill before us will more than double the size of the program by fiscal year 1995. It will place a stronger emphasis on product commercialization. It will increase the weight placed on the commercial viability of research topics. And, this bill will focus SBIR on technologies critical to our Nation's competitiveness.

The reauthorization of SBIR was included in the Democratic economic leadership strategy and defense diversification plan. I was pleased to be a part of both of those efforts and to be an active participant in the reauthorization process, working with Senators BUMPERS, LEVIN, and RUDMAN in the Small Business Committee. This bill represents an important legislative effort and I urge my colleagues to support its passage.

Mr. KERRY. Mr. President, I would like to express my support for the Small Business Research and Development Enhancement Act of 1992. This legislation reauthorizes the Small Business Innovation Research Program and triples the program's size. SBIR enjoys widespread, bipartisan support because it provides a crucial bridge between Government research and real-world products. I am happy to be a cosponsor of this worthy legislation.

The SBIR Program designates for small businesses a small portion of the funds that Government agencies spend on research and encourages these busi-

nesses to commercialize the results of their research. Because it merely earmarks already appropriated funds, it does not increase the deficit. And because the agencies select the SBIR small business awardees based on their ability to perform the research required, the Government does not become involved in picking winners and losers.

The GAO and the SBA evaluated the program and both concluded that SBIR is successful at producing commercially viable products from Government-business research projects. SBIR helps us take advantage of the enormous sums of money spent on Federal R&D in our efforts to keep the United States competitive.

Today, United States companies are falling behind their European and Japanese counterparts in many industries in which the United States was once dominant. This is happening not because U.S. research is poor. U.S. basic research, much of which is supported by Federal dollars, is the finest in the world. But there is a failure on the part of U.S. companies to commercialize the results of sophisticated U.S. basic research.

I believe this failure is substantially a result of the U.S. system of capital investment which results in underinvestment both in small companies and in projects with a long-term payback. Small companies are facing a devastating credit crunch as a result of the recession and tougher lending requirements by banks. America's short-term mentality creates a credit crunch for projects whose payback is longer than the next quarter—but turning basic research into a product for which American consumers will pay takes time, often longer than a small business can wait.

The SBIR Program attacks both of these problems. It gives small businesses access to the research money of the Federal Government. And it encourages those who do the research to commercialize it—either on their own or in cooperation with a large firm. This inevitably leads to more jobs for American workers and more innovative products for American consumers.

The SBIR Program leverages Federal R&D dollars in a way that will help make this Nation more competitive without either spending more or picking winners and losers. I urge my colleagues to support this important legislation.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2941

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Small Business Research and Development Enhancement Act of 1992".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

#### TITLE I—SMALL BUSINESS INNOVATION RESEARCH PROGRAM

Sec. 101. Short title.

Sec. 102. Findings and purposes.

Sec. 103. Amendments to small business innovation research program.

Sec. 104. Extension of SBIR program.

Sec. 105. Reports of the Comptroller General.

Sec. 106. Recommendations of the Secretary of Defense.

#### TITLE II—SMALL BUSINESS TECHNOLOGY TRANSFER PILOT PROGRAM

Sec. 201. Short title.

Sec. 202. Establishment of small business technology transfer pilot program.

#### TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. Discretionary technical assistance to SBIR awardees.

Sec. 302. Extension of the technology transfer demonstration program.

Sec. 303. Reporting requirements.

Sec. 304. Small Business Institutes.

Sec. 305. Additional SBIR and STTR provisions.

Sec. 306. Sense of the Congress concerning American-made equipment and products.

Sec. 307. Technical corrections.

#### TITLE I—SMALL BUSINESS INNOVATION RESEARCH PROGRAM

##### SEC. 101. SHORT TITLE.

This title may be cited as the "Small Business Innovation Research Program Reauthorization Act of 1992".

##### SEC. 102. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the small business innovation research program established under the Small Business Innovation Development Act of 1982, (hereafter in this Act referred to as the "SBIR" program) has been a successful method of involving small business concerns in Federal research and development;

(2) the small business innovation research program has been an effective catalyst for the development of technological innovations by small business concerns;

(3) small business innovation research program participants have provided high quality research and development in a cost-effective manner;

(4) the innovative products and services developed by small business concerns participating in the small business innovation research program have been important to the national defense, as well as to the missions of the other participating Federal agencies;

(5) the small business innovation research program has effectively stimulated the commercialization of technology developed through Federal research and development, benefiting both the public and private sectors of the Nation;

(6) by encouraging the development and commercialization of technological innova-

tions, the small business innovation research program has created jobs, expanded business opportunities for small firms, stimulated the development of new products and services, and improved the competitiveness of the Nation's high technology industries;

(7) the small business innovation research program has also helped to increase exports from small business concerns;

(8) despite the general success of the small business innovation research program, the proportion of Federal research and development funds received by small business concerns has not increased over the life of the program, but has remained at 3 percent; and

(9) although the participating Federal agencies have successfully implemented most aspects of the small business innovation research program, additional outreach efforts are necessary to stimulate increased participation of socially and economically disadvantaged small business concerns.

(b) PURPOSES.—The purposes of this title are—

(1) to expand and improve the small business innovation research program;

(2) to emphasize the program's goal of increasing private sector commercialization of technology developed through Federal research and development;

(3) to increase small business participation in Federal research and development; and

(4) to improve the Federal Government's dissemination of information concerning the small business innovation research program, particularly with regard to program participation by women-owned small business concerns and by socially and economically disadvantaged small business concerns.

#### SEC. 103. AMENDMENTS TO SMALL BUSINESS INNOVATION RESEARCH PROGRAM.

(a) DEFINITION OF THE SMALL BUSINESS INNOVATION RESEARCH PROGRAM.—Section 9(e)(4) of the Small Business Act (15 U.S.C. 638(e)(4)) is amended—

(1) in subparagraph (A), by inserting "that appear to have commercial potential, as described in subparagraph (B)(ii)," after "ideas"; and

(2) by striking subparagraphs (B) and (C) and inserting the following:

"(B) a second phase, to further develop proposals which meet particular program needs, in which awards shall be made based on the scientific and technical merit and feasibility of the proposals, as evidenced by the first phase, considering, among other things, the proposal's commercial potential, as evidenced by—

"(i) the small business concern's record of successfully commercializing SBIR or other research;

"(ii) the existence of second phase funding commitments from private sector or non-SBIR funding sources;

"(iii) the existence of third phase, follow-on commitments for the subject of the research; and

"(iv) the presence of other indicators of the commercial potential of the idea; and

"(C) where appropriate, a third phase—

"(i) in which commercial applications of SBIR-funded research or research and development are funded by non-Federal sources of capital or, for products or services intended for use by the Federal Government, by follow-on non-SBIR Federal funding awards; and

"(ii) for which awards from non-SBIR Federal funding sources are used for the continuation of research or research and development that has been competitively selected using peer review or scientific review criteria; and"

(b) REQUIRED EXPENDITURES FOR SBIR BY FEDERAL AGENCIES.—Section 9(f) of the Small Business Act (15 U.S.C. 638(f)) is amended to read as follows:

"(f) FEDERAL AGENCY EXPENDITURES FOR THE SBIR PROGRAM.—

"(1) REQUIRED EXPENDITURE AMOUNTS.—Each Federal agency which has an extramural budget for research or research and development in excess of \$100,000,000 for fiscal year 1992, or any fiscal year thereafter, shall expend with small business concerns—

"(A) not less than 1.5 percent of such budget in each of fiscal years 1993 and 1994;

"(B) not less than 2.0 percent of such budget in each of fiscal years 1995 and 1996; and

"(C) not less than 2.5 percent of such budget in each fiscal year thereafter, specifically in connection with SBIR programs which meet the requirements of this section, policy directives, and regulations issued under this section.

"(2) LIMITATIONS.—A Federal agency shall not—

"(A) use any of its SBIR budget established pursuant to paragraph (1) for the purpose of funding administrative costs of the program, including costs associated with salaries and expenses; or

"(B) make available for the purpose of meeting the requirements of paragraph (1) an amount of its extramural budget for basic research which exceeds the percentages specified in paragraph (1).

"(3) EXCLUSION OF CERTAIN FUNDING AGREEMENTS.—Funding agreements with small business concerns for research or research and development which result from competitive or single source selections other than an SBIR program shall not be considered to meet any portion of the percentage requirements of paragraph (1)."

(c) INCLUSION OF CERTAIN DEPARTMENT OF DEFENSE RESEARCH AND DEVELOPMENT ACTIVITIES.—Section 9(e) of the Small Business Act (15 U.S.C. 638(e)) is amended in paragraph (1), by striking "for the Department of Defense" and all that follows through "development" and inserting "for the Department of Energy it shall not include amounts obligated for atomic energy defense programs solely for weapons activities or for naval reactor programs".

(d) SBIR SOLICITATIONS.—Section 9(g) of the Small Business Act (15 U.S.C. 638(g)) is amended—

(1) by redesignating paragraphs (3) through (7) as paragraphs (4) through (8), respectively; and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) unilaterally determine research topics within the agency's SBIR solicitations, giving special consideration to broad research topics and to topics that further 1 or more critical technologies, as identified by—

"(A) the National Critical Technologies Panel (or its successor) in the 1991 report required under section 603 of the National Science and Technology Policy, Organization, and Priorities Act of 1976, and in subsequent reports issued under that authority; or

"(B) the Secretary of Defense, in the 1992 report issued in accordance with section 2522 of title 10, United States Code, and in subsequent reports issued under that authority."

(e) DEADLINE FOR FINAL PAYMENT UNDER SBIR FUNDING AGREEMENTS.—Section 9(g)(7) of the Small Business Act (15 U.S.C. 638(g)(7)) (as redesignated by subsection (d)(1)) is amended by inserting before the semicolon the following: "and, in all cases, make payment to recipients under such agreements in full, subject to audit, on or before the last

day of the 12-month period beginning on the date of completion of such requirements".

(f) MODIFICATIONS TO SBIR POLICY DIRECTIVES.—Section 9(j) of the Small Business Act (15 U.S.C. 638(j)) is amended—

(1) in paragraph (2), by redesignating subparagraphs (A) through (H) as clauses (1) through (viii), respectively;

(2) by redesignating paragraphs (1) through (7) as subparagraphs (A) through (G), respectively;

(3) by inserting before "The Small Business Administration" the following:

"(1) POLICY DIRECTIVES.—"; and

(4) by adding at the end the following new paragraph:

"(2) MODIFICATIONS.—Not later than 90 days after the date of enactment of the Small Business Research and Development Enhancement Act of 1992, the Administrator shall modify the policy directives issued pursuant to this subsection to provide for—

"(A) retention by a small business concern of the rights to data generated by the concern in the performance of an SBIR award for a period of not less than 4 years;

"(B) continued use by a small business concern participating in the third phase of the SBIR program, as a directed bailment, of any property transferred by a Federal agency to the small business concern in the second phase of an SBIR program for a period of not less than 2 years, beginning on the initial date of the concern's participation in the third phase of such program;

"(C) procedures to ensure, to the extent practicable, that an agency which intends to pursue research, development, or production of a technology developed by a small business concern under an SBIR program enters into follow-on, non-SBIR funding agreements with the small business concern for such research, development, or production;

"(D) an increase to \$100,000 in the amount of funds which an agency may award in the first phase of an SBIR program, and to \$750,000 in the second phase of an SBIR program, and an adjustment of such amounts once every 5 years to reflect economic adjustments and programmatic considerations;

"(E) a process for notifying the participating SBIR agencies and potential SBIR participants of the 1991, 1992, and the current critical technologies, as identified—

"(i) by the National Critical Technologies Panel (or its successor), in accordance with section 603 of the National Science and Technology Policy, Organization, and Priorities Act of 1976; or

"(ii) by the Secretary of Defense, in accordance with section 2522 of title 10, United States Code;

"(F) enhanced outreach efforts to increase the participation of socially and economically disadvantaged small business concerns, as defined in section 8(a)(4), and the participation of small businesses that are 51 percent owned and controlled by women in technological innovation and in SBIR programs, including the third phase of such programs, and the collection of data to document such participation;

"(G) technical and programmatic guidance to encourage agencies to develop gap-funding programs to address the delay between an award for the first phase of an SBIR program and the application for and extension of an award for the second phase of such program;

"(H) procedures to ensure that a small business concern that submits a proposal for a funding agreement for the first phase of an SBIR program and that has received more than 15 second phase SBIR awards during the preceding 5 fiscal years is able to dem-



onstrate the extent to which it was able to secure third phase funding to develop concepts resulting from previous second phase SBIR awards; and

"(I) procedures to ensure that agencies participating in the SBIR program retain the information submitted under subparagraph (H) at least until the General Accounting Office submits the report required under section 105 of the Small Business Research and Development Enhancement Act of 1992."

(g) **ELIMINATION OF SURVEYING AND REPORTING REQUIREMENT.**—Section 9(k) of the Small Business Act (15 U.S.C. 638(k)) is amended to read as follows:

"(k) [Reserved]."

(h) **REPORTING OF AWARDS MADE FROM SINGLE PROPOSAL, TO MULTIPLE AWARD WINNERS, OR TO CRITICAL TECHNOLOGY TOPICS.**—

(1) **IN GENERAL.**—Section 9 of the Small Business Act (15 U.S.C. 638) is amended by adding at the end the following new subsection:

"(I) **REPORTING OF AWARDS MADE FROM SINGLE PROPOSAL, TO MULTIPLE AWARD WINNERS, OR TO CRITICAL TECHNOLOGY TOPICS.**—

"(i) **SINGLE PROPOSAL.**—If a Federal agency required to establish an SBIR program under subsection (f) makes an award with respect to an SBIR solicitation topic or subtopic for which the agency received only 1 proposal, the agency shall provide written justification for making the award in its next quarterly report to the Administration and in the agency's next annual report required under subsection (g)(8).

"(ii) **MULTIPLE AWARDS.**—An agency referred to in paragraph (1) shall include in its next annual report required under subsection (g)(8) an accounting of the awards the agency has made for the first phase of an SBIR program during the reporting period to entities that have received more than 15 awards for the second phase of an SBIR program during the preceding 5 fiscal years.

"(iii) **CRITICAL TECHNOLOGY AWARDS.**—An agency referred to in paragraph (1) shall include in its next annual report required under subsection (g)(8), an accounting of the number of awards it has made to critical technology topics, as defined in subsection (g)(3), including an identification of the specific critical technologies topics, and the percentage by number and dollar amount of the agency's total SBIR awards to such critical technology topics."

(2) **CONFORMING AMENDMENT.**—Section 9(g)(5) of the Small Business Act (15 U.S.C. 638(g)(5)) (as redesignated by subsection (d)) is amended by inserting "subject to subsection (I)," before "unilaterally".

(i) **INFORMATION ON ALLOWABLE EXPENSES.**—Section 9(g)(5) of the Small Business Act (as redesignated by subsection (d)) is amended by inserting before the semicolon the following: "and inform each awardee under such an agreement, to the extent possible, of the expenses of the awardee that will be allowable under the funding agreement".

#### SEC. 104. EXTENSION OF SBIR PROGRAM.

(a) **REPEAL PROVISION.**—Section 5 of the Small Business Innovation Development Act of 1982 is hereby repealed.

(b) **TERMINATION DATE.**—Section 9 of the Small Business Act (15 U.S.C. 638) is amended by adding at the end the following:

"(m) **TERMINATION.**—The authorization to carry out the Small Business Innovation Research Program under this section shall terminate on October 1, 2000."

#### SEC. 105. REPORTS OF THE COMPTROLLER GENERAL.

(a) **INTERIM REPORT.**—

(1) **IN GENERAL.**—The Comptroller General of the United States shall submit to the Congress an interim report concerning the quality of research performed under SBIR program funding agreements entered into during fiscal year 1993 and thereafter. Copies of the interim report shall be furnished to each agency that has participated in the SBIR program in fiscal year 1993 or thereafter.

(2) **CONTENTS OF REPORT.**—The Comptroller General shall include in the interim report required under paragraph (1)—

(A) an assessment of the quality of the research performed under the SBIR program funding agreements entered into by each agency that has participated in the SBIR program beginning in fiscal year 1993 or thereafter, specifically addressing—

(i) with respect to each such agency, whether or not there has been a demonstrable reduction in research quality; and

(ii) in the case of such reduction, whether an increase in each such agency's required SBIR participation in accordance with section 9(f)(1) of the Small Business Act (as amended by subsection (b) of this section) would adversely affect the performance of the agency's research programs;

(B) an analysis of the program authorized by section 301 of the Small Business Research and Development Enhancement Act of 1992, considering, among other things—

(i) the extent to which each SBIR agency has implemented the program and the extent to which the program has improved the quality of agency-sponsored research and development;

(ii) the effect of the program on recipient companies' ability to develop and commercialize technology;

(iii) the cost of the program and the average cost per recipient company; and

(iv) the extent to which SBIR companies continue to use the service after completion of the program; and

(C) such other factors as the Comptroller General may deem appropriate.

(b) **FINAL REPORT.**—The Comptroller General of the United States shall transmit to the Congress a final report containing—

(1) a review of the progress made by Federal agencies in meeting the requirements of section 9(f) of the Small Business Act (as amended by this Act), including increases in expenditures required by that subsection;

(2) an analysis of participation by small business concerns in the third phase of SBIR programs, including a systematic evaluation of the techniques adopted by Federal agencies to foster commercialization;

(3) an analysis of the extent to which awards under SBIR programs are made pursuant to section 9(l) of the Small Business Act (as added by section 103(h)) in cases in which a program solicitation receives only 1 proposal;

(4) an analysis of the extent to which awards in the first phase of the SBIR program are made to small business concerns that have received more than 15 second phase awards under the SBIR program in the preceding 5 fiscal years, considering—

(A) the extent to which such concerns were able to secure Federal or private sector follow-on funding;

(B) the extent to which the research developed under such awards was commercialized; and

(C) the amount of commercialization of research developed under such awards, as compared to the amount of commercialization of SBIR research for the entire SBIR program;

(5) the results of periodic random audits of the extramural budget of each such Federal agency;

(6) a review of the extent to which the purposes of this title and the Small Business Innovation Development Act of 1982 have been met with regard to fostering and encouraging the participation of women-owned small business concerns and socially and economically disadvantaged small business concerns (as defined in the Small Business Act) in technological innovation, in general, and the SBIR program, in particular;

(7) an analysis of the effectiveness of the SBIR program in promoting the development of the critical technologies identified by the Secretary of Defense and the National Critical Technologies Panel (or its successor), as described in subparagraph 9(j)(2)(E) of the Small Business Act;

(8) an analysis of the impact of agency application review periods and funding cycles on SBIR program awardees' financial status and ability to commercialize; and

(9) recommendations to the Congress for tracking the extent to which foreign firms, or United States firms with substantial foreign ownership interests, benefit from technology or products developed as a direct result of SBIR research or research and development.

(c) **DATES OF SUBMISSION.**—The report required—

(1) under subsection (a), shall be submitted to the Congress not later than March 31, 1995; and

(2) under subsection (b), shall be submitted to the Congress not later than 5 years after the date of enactment of this title.

#### SEC. 106. RECOMMENDATIONS OF THE SECRETARY OF DEFENSE.

Not later than March 31, 1996, the Secretary of Defense shall submit a recommendation to the Congress addressing whether there has been a demonstrable reduction in the quality of research performed under the SBIR program since the beginning of fiscal year 1993, such that increasing the percentage under section 9(f)(1)(C) of the Small Business Act (as amended by section 103 of this Act) would adversely affect the performance of the research programs of the Department of Defense.

#### TITLE II—SMALL BUSINESS TECHNOLOGY TRANSFER PILOT PROGRAM

##### SEC. 201. SHORT TITLE.

This title may be cited as the "Small Business Technology Transfer Act of 1992".

##### SEC. 202. ESTABLISHMENT OF SMALL BUSINESS TECHNOLOGY TRANSFER PILOT PROGRAM.

(a) **ADDITIONAL SBA DUTIES.**—Section 9(b) of the Small Business Act (15 U.S.C. 638(b)) is amended—

(1) in paragraph (4), by inserting "and small business technology transfer pilot programs" after "small business innovation research programs"; and

(2) in paragraphs (5), (6), and (7), by inserting "and STTR" after "SBIR" each place such term appears.

(b) **SMALL BUSINESS TECHNOLOGY TRANSFER PILOT PROGRAM DEFINED.**—Section 9(e) of the Small Business Act (15 U.S.C. 638(e)) is amended—

(1) in paragraph (4), by striking "and" at the end;

(2) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(6) the term 'Small Business Technology Transfer Program' or 'STTR' means a pilot program under which a portion of a Federal agency's extramural research or research and development effort is reserved for award to small business concerns for cooperative

research and development through a uniform process having—

"(A) a first phase, to determine, to the extent possible, the scientific, technical, and commercial merit and feasibility of ideas submitted pursuant to STTR program solicitations;

"(B) a second phase, to further develop proposed ideas to meet particular program needs, in which awards shall be made based on the scientific, technical, and commercial merit and feasibility of the idea, as evidenced by the first phase and by other relevant information; and

"(C) where appropriate, a third phase—

"(i) in which commercial applications of STTR-funded research or research and development are funded by non-Federal sources of capital or, for products or services intended for use by the Federal Government, by follow-on non-STTR Federal funding awards; and

"(ii) for which awards from non-STTR Federal funding sources are used for the continuation of research or research and development that has been competitively selected using peer review or scientific review criteria;

"(7) the term 'cooperative research and development' means research or research and development conducted jointly by a small business concern and a research institution in which not less than 40 percent of the work is performed by the small business concern, and not less than 30 percent of the work is performed by the research institution; and

"(8) the term 'research institution' means a nonprofit institution, as defined in section 4(5) of the Stevenson-Wydler Technology Innovation Act of 1980, and includes federally funded research and development centers, as identified by the National Scientific Foundation in accordance with the governmentwide Federal Acquisition Regulation issued in accordance with section 35(c)(1) of the Office of Federal Procurement Policy Act (or any successor regulation thereto)."

(c) ESTABLISHMENT OF SMALL BUSINESS TECHNOLOGY TRANSFER PROGRAMS BY CERTAIN FEDERAL AGENCIES.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended by adding at the end the following new subsections:

"(n) REQUIRED EXPENDITURES FOR STTR BY FEDERAL AGENCIES.—

"(1) REQUIRED EXPENDITURE AMOUNTS.—Each Federal agency which has an extramural budget for research or research and development in excess of \$1,000,000,000 in fiscal year 1994, 1995, or 1996, is authorized to expend with small business concerns—

"(A) not less than 0.05 percent of such budget in fiscal year 1994;

"(B) not less than 0.1 percent of such budget in fiscal year 1995; and

"(C) not less than 0.15 percent of such budget in fiscal year 1996, specifically in connection with STTR programs which meet the requirements of this section, policy directives, and regulations issued under this section.

"(2) LIMITATIONS.—A Federal agency shall not—

"(A) use any of its STTR budget established pursuant to paragraph (1) for the purpose of funding administrative costs of the program, including costs associated with salaries and expenses, or, in the case of a small business concern or a research institution, costs associated with salaries, expenses, and administrative overhead (other than those direct or indirect costs allowable under guidelines of the Office of Management and Budget and the governmentwide Federal Ac-

quisition Regulation issued in accordance with section 25(c)(1) of the Office of Federal Procurement Policy Act); or

"(B) make available for the purpose of meeting the requirements of paragraph (1) an amount of its extramural budget for basic research which exceeds the percentage specified in paragraph (1).

"(3) EXCLUSION OF CERTAIN FUNDING AGREEMENTS.—Funding agreements with small business concerns for research or research and development which result from competitive or single source selections other than an STTR program shall not be considered to meet any portion of the percentage requirements of paragraph (1).

"(o) FEDERAL AGENCY STTR AUTHORITY.—Each Federal agency required to establish an STTR program in accordance with subsection (n) and regulations issued under this Act, shall—

"(1) unilaterally determine categories of projects to be included in its STTR program;

"(2) issue STTR solicitations in accordance with a schedule determined cooperatively with the Administration;

"(3) unilaterally determine research topics within the agency's STTR solicitations, giving special consideration to broad research topics and to topics that further 1 or more critical technologies, as identified—

"(A) by the National Critical Technologies Panel (or its successor) in reports required under section 603 of the National Science and Technology Policy, Organization, and Priorities Act of 1976; or

"(B) by the Secretary of Defense, in accordance with section 2522 of title 10, United States Code;

"(4) unilaterally receive and evaluate proposals resulting from STTR solicitations;

"(5) unilaterally select awardees for its STTR funding agreements and inform each awardee under such an agreement, to the extent possible, of the expenses of the awardee that will be allowable under the funding agreement;

"(6) administer its own STTR funding agreements (or delegate such administration to another agency);

"(7) make payments to recipients of STTR funding agreements on the basis of progress toward or completion of the funding agreement requirements and, in all cases, make payment to recipients under such agreements in full, subject to audit, on or before the last day of the 12-month period beginning on the date of the completion of such requirements;

"(8) submit an annual report on the STTR program to the Administration and the Office of Science and Technology Policy;

"(9) develop a model agreement not later than July 31, 1993, to be approved by the Administration, for allocating between small business concerns and research institutions intellectual property rights and rights, if any, to carry out follow-on research, development, or commercialization;

"(10) develop, in consultation with the Office of Federal Procurement Policy and the Office of Government Ethics, procedures to ensure that federally funded research and development centers (as defined in subsection (e)(8)) that participate in STTR agreements—

"(A) are free from organizational conflicts of interests relative to the STTR program;

"(B) do not use privileged information gained through work performed for an STTR agency or private access to STTR agency personnel in the development of an STTR proposal; and

"(C) use outside peer review, as appropriate; and

"(11) not later than July 31, 1993, develop procedures for assessing the commercial merit and feasibility of STTR proposals, as evidenced by—

"(A) the small business concern's record of successfully commercializing STTR or other research;

"(B) the existence of second phase funding commitments from private sector or non-STTR funding sources;

"(C) the existence of third phase follow-on commitments for the subject of the research; and

"(D) the presence of other indicators of the commercial potential of the idea.

"(p) STTR POLICY DIRECTIVE.—

"(1) ISSUANCE.—The Administrator shall issue a policy directive for the general conduct of the STTR programs within the Federal Government. Such policy directive shall be issued after consultation with—

"(A) the heads of each of the Federal agencies required by subsection (n) to establish an STTR program;

"(B) the Commissioner of Patents and Trademarks; and

"(C) the Director of the Office of Federal Procurement Policy.

"(2) CONTENTS.—The policy directive required by paragraph (1) shall provide for—

"(A) simplified, standardized, and timely STTR solicitations;

"(B) a simplified, standardized funding process that provides for—

"(i) the timely receipt and review of proposals;

"(ii) outside peer review, if appropriate;

"(iii) protection of proprietary information provided in proposals;

"(iv) selection of awardees;

"(v) retention by a small business concern of the rights to data generated by the concern in the performance of an STTR award for a period of not less than 4 years;

"(vi) continued use by a small business concern, as a directed bailment, of any property transferred by a Federal agency to the small business concern in the second phase of the STTR program for a period of not less than 2 years, beginning on the initial date of the concern's participation in the third phase of such program;

"(vii) cost sharing;

"(viii) cost principles and payment schedules; and

"(ix) 1-year awards for the first phase of an STTR program, generally not to exceed \$100,000, and 2-year awards for the second phase of an STTR program, generally not to exceed \$500,000, greater or lesser amounts to be awarded at the discretion of the awarding agency;

"(C) minimizing regulatory burdens associated with participation in STTR programs;

"(D) guidelines for a model agreement, to be used by all agencies, for allocating between small business concerns and research institutions intellectual property rights and rights, if any, to carry out follow-on research, development, or commercialization;

"(E) procedures to ensure that—

"(i) a recipient of an STTR award is a small business concern, as defined in section 3 and the regulations promulgated thereunder; and

"(ii) such small business concern exercises management and control of the performance of the STTR funding agreement pursuant to a business plan providing for the commercialization of the technology that is the subject matter of the award; and

"(F) procedures to ensure, to the extent practicable, that an agency which intends to pursue research, development, or production



of a technology developed by a small business concern under an STTR program enters into follow-on, non-STTR funding agreements with the small business concern for such research, development, or production."

(d) **TIMING OF ISSUANCE OF POLICY DIRECTIVE.**—The policy directive required by section 9(p) of the Small Business Act (as added by subsection (c) of this section) shall be published—

(1) in proposed form (with an opportunity for public comment of not less than 30 days), not later than April 30, 1993; and

(2) in final form, not later than July 31, 1993.

(e) **REPORT OF THE COMPTROLLER GENERAL.**—Not later than March 31, 1996, the Comptroller General of the United States shall submit a report to the Congress and the head of each agency that is required to make expenditures under the STTR program that—

(1) sets forth the Comptroller General's assessment, with respect to each such agency, of—

(A) the quality of research performed under funding agreements awarded by that agency under the STTR program since the beginning of the program;

(B) whether or not the STTR program has affected the performance of that agency's research programs; and

(C) the commercial potential of research conducted under the STTR program, if sufficient data is available;

(2) contains the Comptroller General's assessment as to the effects of the STTR program, if any, on the research quality and goals of the SBIR program; and

(3) determines the agencies and the federally-funded research and development centers' compliance with the procedures developed under section 9(g)(10) of the Small Business Act, as amended by this section.

### TITLE III—MISCELLANEOUS PROVISIONS

#### SEC. 301. DISCRETIONARY TECHNICAL ASSISTANCE TO SBIR Awardees.

(a) **IN GENERAL.**—Section 9 of the Small Business Act (15 U.S.C. 638) is amended by adding at the end the following new subsection:

"(q) **DISCRETIONARY TECHNICAL ASSISTANCE.**—

"(1) **IN GENERAL.**—Each Federal agency required by this section to conduct an SBIR program may enter into an agreement with a vendor selected under paragraph (2) to provide small business concerns engaged in SBIR projects with technical assistance services, such as access to a network of scientists and engineers engaged in a wide range of technologies, or access to technical and business literature available through online data bases, for the purpose of assisting such concerns in—

"(A) making better technical decisions concerning such projects;

"(B) solving technical problems which arise during the conduct of such projects;

"(C) minimizing technical risks associated with such projects; and

"(D) developing and commercializing new commercial products and processes resulting from such projects.

"(2) **VENDOR SELECTION.**—Annually, each agency may select a vendor for purposes of this subsection using competitive, merit-based criteria, to assist small business concerns to meet the goals listed in paragraph (1).

"(3) **ADDITIONAL TECHNICAL ASSISTANCE.**—

"(A) **FIRST PHASE.**—Each agency referred to in paragraph (1) may provide services described in paragraph (1) to first phase SBIR

award recipients in an amount equal to not more than \$4,000, which shall be in addition to the amount of the recipient's award.

"(B) **SECOND PHASE.**—Each agency referred to in paragraph (1) may authorize any second phase SBIR award recipient to purchase, with funds available from their SBIR awards, services described in paragraph (1), in an amount equal to not more than \$4,000 per year.

#### SEC. 302. EXTENSION OF THE TECHNOLOGY TRANSFER DEMONSTRATION PROGRAM.

Section 231 of the Small Business Administration Reauthorization and Amendments Act of 1990 (15 U.S.C. 648 note) is amended—

(1) in subsection (g), by striking "1993" and inserting "1995"; and

(2) in subsection (i), by striking "1991, 1992, and" and inserting "1994 and 1995".

#### SEC. 303. REPORTING REQUIREMENTS.

(a) **REPORT ON DEFICIENT SUBCONTRACTING PLANS.**—Section 8(d) of the Small Business Act (15 U.S.C. 637(d)) is amended—

(1) by striking paragraph (1); and

(2) by redesignating paragraph (12) as paragraph (11).

(b) **SMALL PURCHASES FROM FEDERAL PRISON INDUSTRIES.**—Section 4124(c) of title 18, United States Code, is amended in the first sentence by striking "to the General Services Administration" and all that follows through "Procurement Policy Act" and inserting "acquisitions of products and services from Federal Prison Industries to the Federal Procurement Data System (as referred to in section 6(d)(4) of the Office of Federal Procurement Policy Act) in the same manner as it reports other acquisitions".

#### SEC. 304. SMALL BUSINESS INSTITUTES.

Section 8(b)(1) of the Small Business Act (15 U.S.C. 637(b)(1)) is amended—

(1) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively; and

(2) by inserting after subparagraph (D) the following:

"(E) In carrying out its functions under subparagraph (A), to make grants (including contracts and cooperative agreements) to any public or private institution of higher education for the establishment and operation of a small business institute, which shall be used to provide business counseling and assistance to small business concerns through the activities of students enrolled at the institution, which students shall be entitled to receive educational credits for their activities."

#### SEC. 305. ADDITIONAL SBIR AND STTR PROVISIONS.

Section 9 of the Small Business Act (15 U.S.C. 638), is amended by adding at the end the following new subsection:

"(r) **THIRD PHASE AGREEMENTS.**—

"(1) **IN GENERAL.**—In the case of a small business concern that is awarded a funding agreement for the second phase of an SBIR or STTR program, a Federal agency may enter into a third phase agreement with that business concern for additional work to be performed during or after the second phase period. The second phase funding agreement with the small business concern may, at the discretion of the agency awarding the agreement, set out the procedures applicable to third phase agreements with that agency or any other agency.

"(2) **DEFINITION.**—In this subsection, the term 'third phase agreement' means a follow-on, non-SBIR or non-STTR funded contract as described in paragraph (4)(C) or paragraph (6)(C) of subsection (e).

"(3) **INTELLECTUAL PROPERTY RIGHTS.**—Each funding agreement under an SBIR or STTR program shall include provisions setting forth the respective rights of the United States and the small business concern with respect to intellectual property rights and with respect to any right to carry out follow-on research."

#### SEC. 306. SENSE OF THE CONGRESS CONCERNING AMERICAN-MADE EQUIPMENT AND PRODUCTS.

(a) **PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.**—It is the sense of the Congress that an entity that is awarded a funding agreement under the SBIR program of a Federal agency under section 9 of the Small Business Act should, when purchasing any equipment or a product with funds provided through the funding agreement, purchase only American-made equipment and products, to the extent possible in keeping with the overall purposes of that program.

(b) **NOTICE TO SBIR Awardees.**—Each Federal agency that awards funding agreements under the SBIR program shall provide to each recipient of such an award a notice describing the sense of the Congress, as set forth in subsection (a).

#### SEC. 307. TECHNICAL CORRECTIONS.

(a) **SMALL BUSINESS PARTICIPATION RATES.**—Section 714(b)(4) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note, 102 Stat. 3892) is amended by inserting "or other services in support of such contracts" after "(including surveying and mapping)".

(b) **MICROLOAN PROGRAM FUNDING.**—Section 7(m)(7) of the Small Business Act (15 U.S.C. 636(m)(7)) is amended—

(1) in subparagraph (A), by adding at the end the following: "If, at the end of fiscal year 1992, the Administration has funded less than 50 microloan programs under this subparagraph, the Administration may, in fiscal year 1993, fund a number of additional microloan programs equal to the difference between 50 and the number of microloan programs actually funded in fiscal year 1992."; and

(2) in subparagraph (B), by striking "In the second" and inserting "In addition to any microloan programs authorized to be funded in fiscal year 1993 in accordance with subparagraph (A), in the second".

(c) **DEFINITION OF INTERMEDIARY.**—Section 7(m)(11)(A)(ii) of the Small Business Act (15 U.S.C. 636(m)(11)(A)(ii)) is amended by inserting "private," before "nonprofit".

(d) **SECONDARY LOAN MARKETS.**—Section 5(f)(4) of the Small Business Act (15 U.S.C. 634(f)(4)) is amended by striking "5(e), 7(a)(6), or 7(a)(8)" and inserting "7(a)(6)(C) or subsection (e) of this section".

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### HEALTH CARE FRAUD PROSECUTION ACT OF 1992

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 776, S. 2652, the Health Care Fraud Prosecution Act, filed today by the Judiciary Committee.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2652) to provide enhanced penalties for commission of fraud in connection with the provision of or receipt of payment for health care services, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Health Care Fraud Prosecution Act of 1992".

#### SEC. 2. INCREASED PENALTIES FOR HEALTH CARE FRAUD.

(a) OFFENSE.—Part I of title 18, United States Code, is amended by inserting after chapter 50A the following new chapter:

##### "CHAPTER 50B—HEALTH CARE FRAUD

"Sec.

"1101. Health care fraud.

##### "§ 1102. Penalties

"(a) IN GENERAL.—In the case of an offense under section 1101 not described in subsection (b) or (c), the offender shall be sentenced to a term of imprisonment of not more than 10 years.

"(b) SERIOUS PHYSICAL INJURY OR ENDANGERMENT OF LIFE OF PATIENT.—In the case of an offense under section 1101 that—

"(1) caused serious physical injury to a patient; or

"(2) endangered the life of a patient,

the offender shall be sentenced to a term of imprisonment of not more than 20 years.

"(c) DEATH OF PATIENT.—In the case of an offense under section 1101 that caused the death of a patient, the offender shall be sentenced to a term of imprisonment of not more than life.

##### "§ 1103. Restitution

"In sentencing an offender convicted under section 1101, the court—

"(1) shall order the offender to pay restitution to the patient and, if the payor was the United States, to the payor, for loss sustained as a result of the offender's fraudulent activity; and

"(2) may order the offender to pay restitution to others who sustained losses as a result of the offender's fraudulent activity."

(b) TECHNICAL AMENDMENT.—The part analysis for part I of title 18, United States Code, is amended by inserting after the item for chapter 50A the following new item:

"50B. Health care fraud."

#### SEC. 3. FORFEITURE OF FRAUD PROCEEDS

Section 982(a) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(5) The court, in imposing sentence on a person convicted of an offense or of conspiring to commit an offense under—

"(A) section 1101;

"(B) section 301(t) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(t)); or

"(3) section 301 (a), (b), (c), or (k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331 (a), (b), (c), and (k)), if the offense or conspiracy involved a drug and was done with intent to defraud or mislead any person or entity,

shall order that the offender forfeit to the United States any real or personal property

constituting or derived from proceeds that the offender obtained directly or indirectly as the result of the offense."

#### SEC. 4. REWARDS FOR INFORMATION LEADING TO PROSECUTION AND CONVICTION.

Section 3059 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) In special circumstances and in the Attorney General's sole discretion, the Attorney General may make a payment of up to \$10,000 to a person who furnishes information unknown to the Government relating to a possible prosecution under section 1101.

"(2) A person is not eligible for a payment under paragraph (1) if—

"(A) the person is a current or former officer or employee of a Federal or State government agency or instrumentality who furnishes information discovered or gathered in the course of government employment;

"(B) the person knowingly participated in the offense;

"(C) the information furnished by the person consists of allegations or transactions that have been disclosed to the public—

"(i) in a criminal, civil, or administrative proceeding;

"(ii) in a congressional, administrative or General Accounting Office report, hearing, audit, or investigation; or

"(iii) by the news media, unless the person is the original source of the information; or

"(D) when, in the judgment of the Attorney General, it appears that a person whose illegal activities are being prosecuted or investigated could benefit from the award.

"(3) For the purposes of paragraph (2)(C)(iii), the term 'original source' means a person who has direct and independent knowledge of the information that is furnished and has voluntarily provided the information to the Government prior to disclosure by the news media.

"(4) Neither the failure of the Attorney General to authorize a payment under paragraph (1) nor the amount authorized shall be subject to judicial review."

#### SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated in fiscal year 1993 for the purposes of carrying out the purposes of this Act and the amendments made by this Act—

(1) \$20,000,000 for the Federal Bureau of Investigation to hire, equip, and train no fewer than 200 special agents and support staff to investigate health-care fraud cases;

(2) \$5,000,000 to hire, equip, and train no fewer than 50 assistant United States Attorneys and support staff to prosecute health-care fraud cases; and

(3) \$5,000,000 to hire, equip, and train no fewer than 50 investigators in the Office of Inspector General, Department of Health and Human Services, to be devoted exclusively to health-care fraud cases.

#### SEC. 6. BROADENING APPLICATION OF MAIL FRAUD STATUTE.

Section 1341 of title 18, United States Code, is amended—

(1) by inserting "or deposits or causes to be deposited any matter or thing whatever to be sent or delivered by any private or commercial interstate carrier," after "Postal Service,"; and

(2) by inserting "or such carrier" after "causes to be delivered by mail".

#### SEC. 7. RULE OF CONSTRUCTION.

Nothing in this Act or the amendments made by this Act shall be construed to affect any right that a person may have to bring a civil action for the person and for the United States Government under section 3730 of title 31, United States Code, or any other

law, based on an act or omission that many constitute an offense under section 1101 of title 18, United States Code, as added by section 2.

#### SEC. 8. SENSE OF THE SENATE REGARDING FALSE CLAIMS ACT.

It is the sense of the Senate that citizen suits under section 3730 of title 31, United States Code (commonly known as the qui tam provisions of the False Claims Act), should be used to their full effect in combating health care fraud against the Government.

#### SEC. 9. GRANTS TO STATE AND LOCAL GOVERNMENTS.

(a) GRANTS.—The Attorney General, acting through the Director of the Bureau of Justice Assistance, may make grants to States and units of local government for the purpose of creating health care fraud control units for the purpose of investigating, and assisting such units in investigating, health care fraud and abuse.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal years 1993 and 1994 such sums as are necessary to carry out subsection (a).

AMENDMENT NO. 3399

Mr. FORD. Mr. President, I send an amendment to the desk on behalf of Senator BIDEN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD], for Mr. BIDEN, proposes an amendment numbered 3399.

Mr. FORD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Health Care Fraud Prosecution Act of 1992".

#### SEC. 2. INCREASED PENALTIES FOR HEALTH CARE FRAUD.

(a) OFFENSE.—Part I of title 18, United States Code, is amended by inserting after chapter 50A the following new chapter:

##### "CHAPTER 50B—HEALTH CARE FRAUD

"Sec.

"1101. Health care fraud.

"1102. Penalties.

"1103. Restitution.

##### "§ 1101. Health care fraud

"(a) DEFINITION.—In this section, the term 'health care provider' means—

"(1) a physician, nurse, dentist, therapist, pharmacist, or other professional provider of health care; and

"(2) a hospital, health maintenance organization, pharmacy, laboratory, clinic, or other health care facility or a provider of medical services, medical devices, medical equipment, or other medical supplies.

"(b) OFFENSE.—A health care provider or other person that engages in conduct constituting an offense under section 1341 or 1343 for the purpose of or in connection with the provision of health care services or supplies or the payment therefor or reimbursement of the costs thereof, when—

"(1) the amount of loss caused by the fraudulent conduct exceeds \$10,000; or

"(2) the offender had previously been convicted of fraud in Federal or State court,



shall be fined under this title, imprisoned in accordance with section 1102, or both.

#### § 1102. Penalties

"(a) IN GENERAL.—In the case of an offense under section 1101 not described in subsection (b) or (c), the offender shall be sentenced to a term of imprisonment of not more than 10 years.

"(b) SERIOUS PHYSICAL INJURY OR ENDANGERMENT OF LIFE OF PATIENT.—In the case of an offense under section 1101 that—

"(1) caused serious physical injury to a patient; or

"(2) endangered the life of a patient, the offender shall be sentenced to a term of imprisonment of not more than 20 years.

"(c) DEATH OF PATIENT.—In the case of an offense under section 1101 that caused the death of a patient, the offender shall be sentenced to a term of imprisonment of not more than life.

#### § 1103. Restitution

"In sentencing an offender convicted under section 1101, the court—

"(1) shall order the offender to pay restitution to the patient and, if the payor was the United States, to the payor, for loss sustained as a result of the offender's fraudulent activity; and

"(2) may order the offender to pay restitution to others who sustained losses as a result of the offender's fraudulent activity."

(b) TECHNICAL AMENDMENT.—The part analysis for part I of title 18, United States Code, is amended by inserting after the item for chapter 50A the following new item:

"50B. Health care fraud."

#### SEC. 3. FORFEITURE OF FRAUD PROCEEDS.

Section 982(a) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(5) The court, in imposing sentence on a person convicted of an offense or of conspiring to commit an offense under—

"(A) section 1101;

"(B) section 301(t) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(t)); or

"(3) section 301 (a), (b), (c), or (k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331 (a), (b), (c), and (k)), if the offense or conspiracy involved a drug and was done with intent to defraud or mislead any person or entity,

shall order that the offender forfeit to the United States any real or personal property constituting or derived from proceeds that the offender obtained directly or indirectly as the result of the offense."

#### SEC. 4. REWARDS FOR INFORMATION LEADING TO PROSECUTION AND CONVICTION.

Section 3059 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) In special circumstances and in the Attorney General's sole discretion, the Attorney General may make a payment of up to \$10,000 to a person who furnishes information unknown to the Government relating to a possible prosecution under section 1101.

"(2) A person is not eligible for a payment under paragraph (1) if—

"(A) the person is a current or former officer or employee of a Federal or State government agency or instrumentality who furnishes information discovered or gathered in the course of government employment;

"(B) the person knowingly participated in the offense;

"(C) the information furnished by the person consists of allegations or transactions that have been disclosed to the public—

"(i) in a criminal, civil, or administrative proceeding;

"(ii) in a congressional, administrative or General Accounting Office report, hearing, audit, or investigation; or

"(iii) by the news media, unless the person is the original source of the information; or

"(D) when, in the judgment of the Attorney General, it appears that a person whose illegal activities are being prosecuted or investigated could benefit from the award.

"(3) For the purposes of paragraph (2)(C)(iii), the term 'original source' means a person who has direct and independent knowledge of the information that is furnished and has voluntarily provided the information to the Government prior to disclosure by the news media.

"(4) Neither the failure of the Attorney General to authorize a payment under paragraph (1) nor the amount authorized shall be subject to judicial review."

#### SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated in fiscal year 1993 for the purposes of carrying out the purposes of this Act and the amendments made by this Act—

(1) \$20,000,000 for the Federal Bureau of Investigation to hire, equip, and train no fewer than 200 special agents and support staff to investigate health-care fraud cases;

(2) \$5,000,000 to hire, equip, and train no fewer than 50 Department of Justice attorneys, assistant United States Attorneys, and support staff to prosecute health-care fraud cases; and

(3) \$5,000,000 to hire, equip, and train no fewer than 50 investigators and support staff in the Office of Inspector General, Department of Health and Human Services, to be devoted exclusively to health-care fraud cases.

#### SEC. 6. BROADENING APPLICATION OF MAIL FRAUD STATUTE.

Section 1341 of title 18, United States Code, is amended—

(1) by inserting "or deposits or causes to be deposited any matter or thing whatever to be sent or delivered by any private or commercial interstate carrier," after "Postal Service,"; and

(2) by inserting "or such carrier" after "causes to be delivered by mail".

#### SEC. 7. RULE OF CONSTRUCTION.

Nothing in this Act or the amendments made by this Act shall be construed to affect any right that a person may have to bring a civil action for the person and for the United States Government under section 3730 of title 31, United States Code, or any other law, based on an act or omission that may constitute an offense under section 1101 of title 18, United States Code, as added by section 2.

#### SEC. 8. SENSE OF THE SENATE.

It is the sense of the Senate that—

(1) lawsuits under the False Claims Act (sections 3729 and 3730 of title 31, United States Code), including the qui tam provisions, should be used to their full effect in combating health care fraud against the Government;

(2) the United States Sentencing Commission should modify the sentencing guidelines relating to frauds to prescribe offense levels for health care fraud committed in violation of section 1101 of title 18, United States Code, that are commensurate with the seriousness of a fraud of that nature, as reflected in the increased maximum penalties authorized in section 1102 of that title; and

(3) the Attorney General should promulgate prosecution guidelines to ensure that health care providers are not prosecuted under this Act for bookkeeping errors or accidental billing mistakes.

#### SEC. 9. GRANTS.

(a) FRAUD CONTROL UNITS.—The Attorney General, acting through the Director of the Bureau of Justice Assistance, may make grants to States and units of local government for the purpose of creating health care fraud control units for the purpose of investigating, and assisting such units in investigating, health care fraud and abuse.

(b) MEDICAL SOCIETIES.—The Attorney General, acting through the Director of the Bureau of Justice Assistance, may make grants to State medical societies for the development and implementation of programs designed to combat health care fraud.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal years 1993 and 1994 such sums as are necessary to carry out subsections (a) and (b).

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3399) was agreed to.

Mr. THURMOND. Mr. President, today, the Senate is considering S. 2652, the Health Care Fraud Prosecution Act. Health care fraud is a growing problem which drains precious resources from our economy. The size of the health care industry and the large amount of money involved make it an attractive target for fraud and abuse. That is why I have worked closely with Senator BIDEN in drafting this bipartisan measure.

This bill is a comprehensive measure aimed at providing law enforcement with the necessary resources to fight fraud in the health care industry. This bill creates new Federal penalties for mail and wire fraud committed by health care providers. It requires health care crooks to pay mandatory restitution. The bill also subjects those convicted of health care fraud to criminal forfeiture.

The bill encourages citizens to get involved in the fight against health care fraud. It permits the Attorney General to give awards for information leading to health care fraud convictions and calls attention to qui tam citizen suits.

Finally, the bill also provides grants to State and local officials for prosecuting health care fraud. Grants to State medical societies for development and implementation of antifraud programs are also authorized. It also increases the number of investigators and agents dedicated to fighting health care fraud.

Only through strategic planning, such as that being undertaken by the FBI, can our Nation's efforts against health care fraud truly succeed. Coordinated efforts combined with additional investigative resources should prove to be a valuable investment. Furthermore, additional tools to assist in our efforts, such as the powerful weapon of criminal forfeiture, must be made available to Federal authorities. This bill furthers these objectives and will help establish a sound policy in our fight against this serious fraud.

I worked closely with Senator BIDEN in drafting this legislation. It is the result of a bipartisan effort.

For these reasons, I urge my colleagues to support this bill.

S. 2652

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Health Care Fraud Prosecution Act of 1992".

#### SEC. 2. INCREASED PENALTIES FOR HEALTH CARE FRAUD.

(a) OFFENSE.—Part I of title 18, United States Code, is amended by inserting after chapter 50A the following new chapter:

##### "CHAPTER 50B—HEALTH CARE FRAUD

"Sec.

"1101. Health care fraud.

"1102. Penalties.

"1103. Restitution.

##### "§ 1101. Health care fraud

"(a) DEFINITION.—In this section, the term 'health care provider' means—

"(1) a physician, nurse, dentist, therapist, pharmacist, or other professional provider of health care; and

"(2) a hospital, health maintenance organization, pharmacy, laboratory, clinic, or other health care facility or a provider of medical services, medical devices, medical equipment, or other medical supplies.

"(b) OFFENSE.—A health care provider or other person that engages in conduct constituting an offense under section 1341 or 1343 for the purpose of or in connection with the provision of health care services or supplies or the payment therefor or reimbursement of the costs thereof, when—

"(1) the amount of loss caused by the fraudulent conduct exceeds \$10,000; or

"(2) the offender had previously been convicted of fraud in Federal or State court, shall be fined under this title, imprisoned in accordance with section 1102, or both.

##### "§ 1102. Penalties

"(a) IN GENERAL.—In the case of an offense under section 1101 not described in subsection (b) or (c), the offender shall be sentenced to a term of imprisonment of not more than 10 years.

"(b) SERIOUS PHYSICAL INJURY OR ENDANGERMENT OF LIFE OF PATIENT.—In the case of an offense under section 1101 that—

"(1) caused serious physical injury to a patient; or

"(2) endangered the life of a patient, the offender shall be sentenced to a term of imprisonment of not more than 20 years.

"(c) DEATH OF PATIENT.—In the case of an offense under section 1101 that caused the death of a patient, the offender shall be sentenced to a term of imprisonment of not more than life.

##### "§ 1103. Restitution

"In sentencing an offender convicted under section 1101, the court—

"(1) shall order the offender to pay restitution to the patient and, if the payor was the United States, to the payor, for loss sustained as a result of the offender's fraudulent activity; and

"(2) may order the offender to pay restitution to others who sustained losses as a result of the offender's fraudulent activity."

(b) TECHNICAL AMENDMENT.—The part analysis for part I of title 18, United States Code, is amended by inserting after the item for chapter 50A the following new item:

"50B. Health care fraud."

#### SEC. 3. FORFEITURE OF FRAUD PROCEEDS.

Section 982(a) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(5) The court, in imposing sentence on a person convicted of an offense or of conspiring to commit an offense under—

"(A) section 1101;

"(B) section 301(t) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(t)); or

"(3) section 301 (a), (b), (c), or (k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331 (a), (b), (c), and (k)), if the offense or conspiracy involved a drug and was done with intent to defraud or mislead any person or entity, shall order that the offender forfeit to the United States any real or personal property constituting or derived from proceeds that the offender obtained directly or indirectly as the result of the offense."

#### SEC. 4. REWARDS FOR INFORMATION LEADING TO PROSECUTION AND CONVICTION.

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"(B) the person knowingly participated in the offense;

"(C) the information furnished by the person consists of allegations or transactions that have been disclosed to the public—

"(i) in a criminal, civil, or administrative proceeding;

"(ii) in a congressional, administrative or General Accounting Office report, hearing, audit, or investigation; or

"(iii) by the news media, unless the person is the original source of the information; or

"(D) when, in the judgment of the Attorney General, it appears that a person whose illegal activities are being prosecuted or investigated could benefit from the award.

"(3) For the purposes of paragraph (2)(C)(iii), the term 'original source' means a person who has direct and independent knowledge of the information that is furnished and has voluntarily provided the information to the Government prior to disclosure by the news media.

"(4) Neither the failure of the Attorney General to authorize a payment under paragraph (1) nor the amount authorized shall be subject to judicial review."

#### SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated in fiscal year 1993 for the purposes of carrying out the purposes of this Act and the amendments made by this Act—

(1) \$20,000,000 for the Federal Bureau of Investigation to hire, equip, and train no fewer than 200 special agents and support staff to investigate health-care fraud cases;

(2) \$5,000,000 to hire, equip, and train no fewer than 50 Department of Justice attorneys, assistant United States Attorneys, and support staff to prosecute health-care fraud cases; and

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devoted exclusively to health-care fraud cases.

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#### SEC. 7. RULE OF CONSTRUCTION.

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It is the sense of the Senate that—

(1) lawsuits under the False Claims Act (sections 3729 and 3730 of title 31, United States Code), including the qui tam provisions, should be used to their full effect in combating health care fraud against the Government;

(2) the United States Sentencing Commission should modify the sentencing guidelines relating to frauds to prescribe offense levels for health care fraud committed in violation of section 1101 of title 18, United States Code, that are commensurate with the seriousness of a fraud of that nature, as reflected in the increased maximum penalties authorized in section 1102 of that title; and

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(b) MEDICAL SOCIETIES.—The Attorney General, acting through the Director of the Bureau of Justice Assistance, may make grants to State medical societies for the development and implementation of programs designed to combat health care fraud.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal years 1993 and 1994 such sums as are necessary to carry out subsections (a) and (b).

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:



Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### THE MONTANA WILDERNESS BILL

Mr. DOLE. Mr. President, I have been contacted by the distinguished Senator from Montana [Mr. BURNS], and he is still hopeful that we can appoint conferees on S. 1696, the so-called Montana wilderness bill. As he indicated and has already been indicated on the floor by the leaders, time is running out.

It was the hope of the Senator from Montana, Senator BURNS, that we could appoint conferees today and there could have been a conference over the weekend and we could get this matter resolved between now and Monday, or sometime on Tuesday. That has not been done.

I simply want the RECORD to reflect that Senator BURNS very much would like to see that accomplished even before we go out today.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### MESSAGES FROM THE HOUSE

At 12:50 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 2679. An act to promote the recovery of Hawaii tropical forests, and for other purposes.

The message also announced that the House agrees to the amendments of the Senate to the bill (H.R. 5194) to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to authorize appropriations for fiscal years 1993, 1994, 1995, and 1996, and for other purposes; with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House has passed the bill (S. 2044) to assist Native Americans in assuring the survival and continuing vitality of

their languages; with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5482) to revise and extend the programs of the Rehabilitation Act of 1977, and for other purposes.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 707) to amend the Commodity Exchange Act to improve the regulation of futures and options traded under rules and regulations of the Commodity Futures Trading Commission; to establish registration standards for all exchange floor traders; to restrict practices which may lead to the abuse of outside customers of the marketplace; to reinforce development of exchange audit trails to better enable the detection and prevention of such practices; to establish higher standards for service on governing boards and disciplinary committees of self-regulatory organizations; to enhance the international regulation of futures trading; to regularize the process of authorizing appropriations for the Commodity Futures Trading Commission; and for other purposes.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 4059. An act to amend the Agricultural Trade Development and Assistance Act of 1954 to authorize additional functions within the Enterprise for the Americas Initiative, and for other purposes;

H.R. 4157. An act to amend the Public Works and Economic Development Act of 1965 and the Appalachian Regional Development Act of 1965;

H.R. 6047. An act to amend the United States Information and Educational Exchange Act of 1948, the Foreign Service Act of 1980, administrative authorities;

H.R. 6049. An act to amend the Congressional Award Act to revise and extend authorities for the Congressional Award Board;

H.R. 6077. An act concerning United States participation in a Cascadia Corridor commission; and

H.R. 6093. An act to amend the Airport and Airway Improvement Act of 1982 to authorize appropriations for fiscal years 1993, 1994, and 1995, and for other purposes.

The message further announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 223. Concurrent resolution expressing the sense of the Congress that the International Red Cross/Red Crescent Movement should include Magen David Adom as a legitimate national society of that Movement;

H. Con. Res. 367. Concurrent resolution authorizing the presentation of a program on the Capitol grounds;

H. Con. Res. 370. Concurrent resolution concerning the humanitarian crisis in Somalia; and

H. Con. Res. 371. Concurrent resolution to make corrections in the enrollment of the bill H.R. 5482.

At 1:37 p.m., a message from the House of Representatives announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5677) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1993, and for other purposes; it recedes from its disagreement to the amendments of the Senate numbered 25, 40, 63, 84, 130, 136, 145, 148, 152, 164, 165, 176, 216, 218, and 224 to the bill, and agrees thereto; and that the House recedes from its disagreement to the amendments of the Senate numbered 4, 12, 18, 24, 45, 52, 55, 60, 62, 65, 68, 69, 70, 73, 75, 77, 78, 79, 80, 87, 88, 95, 103, 112, 125, 135, 137, 138, 154, 163, 170, 171, 184, 191, 213, 214, 217, 236, 237, 238, and 239 to the bill, and agrees thereto, each with an amendment, in which it requests the concurrence of the Senate.

#### MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 4059. An act to amend the Agricultural Trade Development and Assistance Act of 1954 to authorize additional functions within the Enterprise for the Americas Initiative, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

H.R. 4157. An act to amend the Public Works and Economic Development Act of 1965 and the Appalachian Regional Development Act of 1965; to the Committee on Environment and Public Works.

H.R. 6047. An act to amend the United States Information and Educational Exchange Act of 1948, the Foreign Service Act of 1980, and other provisions of law to make certain changes in administrative authorities; to the Committee on Foreign Relations.

H.R. 6093. An act to amend the Airport and Airway Improvement Act of 1982 to authorize appropriations for fiscal years 1993, 1994, and 1995, and for other purposes; to the Committee on Commerce, Science, and Transportation.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 223. Concurrent resolution expressing the sense of the Congress that the International Red Cross/Red Crescent Movement should include Magen David Adom as a legitimate national society of that Movement; to the Committee on Foreign Relations.

H. Con. Res. 367. Concurrent resolution authorizing the presentation of a program on the Capitol grounds; to the Committee on Rules and Administration.

H. Con. Res. 370. Concurrent resolution concerning the humanitarian crisis in Somalia; to the Committee on Foreign Relations.

## ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The ACTING PRESIDENT pro tempore (Mr. SANFORD) announced that on today, October 3, 1992, he had signed the following enrolled bills and joint resolution which had previously been signed by the Speaker of the House:

H.R. 1628. An act to authorize the construction of a monument in the District of Columbia or its environs to honor Thomas Paine, and for other purposes;

H.R. 3508. An act to amend the Public Health Service Act to revise and extend certain programs relating to the education of individuals as health professionals, and for other purposes;

H.R. 4178. An act to amend the Public Health Service Act to provide for a program to carry out research on the drug known as diethylstilbestrol, to educate health professionals and the public on the drug, and to provide for certain longitudinal studies regarding individuals who have been exposed to the drug;

H.R. 5673. An act to amend the Public Health Service Act to revise and extend the programs of the Agency for Health Care Policy and Research; and

H.J. Res. 320. Joint resolution authorizing the government of the District of Columbia to establish, in the District of Columbia or its environs, a memorial to African-Americans who served with Union forces during the Civil War.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 1622. A bill to amend the Occupational Safety and Health Act of 1970 to improve the provisions of such Act with respect to the health and safety of employees, and for other purposes (Rept. No. 102-453).

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MCCONNELL:

S. 3314. A bill to amend the Food Stamp Act of 1977 to identify and curtail fraud in the food stamp program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DURENBERGER (for himself and Mr. KENNEDY):

S. 3315. A bill to provide for an endowment grant program to support the establishment of regional centers that promote locally based, volunteer-operated, private citizens', scholarship programs, and for other purposes; to the Committee on Labor and Human Resources.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MCCONNELL:

S. 3314. A bill to amend the Food Stamp Act of 1977 to identify and curtail fraud in the Food Stamp Program,

and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

### FOOD STAMP ANTI-FRAUD ACT OF 1992

Mr. MCCONNELL. Mr. President, today I am introducing legislation that will enable our Government to crack down on the fraud and trafficking abuse that is occurring in the Food Stamp Program. The Food Stamp Program, like most assistance programs we have, is not immune from fraud. The amount of money lost because of fraud is very difficult to determine; however, it is estimated to be in the millions of dollars. From trafficking food stamp coupons to trading the stamps for guns and drugs, the violations are deplorable and the transgressors must be brought to justice.

More than 25 million Americans are enrolled in this program which hands out over \$20 billion in benefits a year. In a program as large as the Food Stamp Program, the Government must have the necessary tools to administer and enforce the rules of the program. We cannot afford to lose the taxpayers' money to fraud and waste in the Food Stamp Program. For every 1 percent of Food Stamp Program funds that are lost to fraud, there could be \$200 million to give as benefits to the food stamp recipients.

The 1990 farm bill required the submission of identification numbers by the retailers and beefed up the penalties to assist USDA in targeting and punishing the violators. These measures have helped; however, the Department is still limited in the information it can share with other agencies in their attempts to target and identify Food Stamp Program abusers.

My bill, the Food Stamp Anti-Fraud Act of 1992, will give the Food and Nutrition Service the tools it needs to identify violators and coordinate its efforts with other law enforcement agencies. Specifically, this legislation will expand the use of the application information and identification numbers provided by the retailer to FNS. Currently, the use of application information is restricted to persons directly involved in the Food Stamp Program and to State agencies that operate the Special Supplemental Food Program for Women, Infants, and Children [WIC]. Furthermore, the use of the Social Security and taxpayer i.d. numbers is limited to the maintenance of a list of those already sanctioned for or convicted of violating the Food Stamp Act.

The Department has been stifled by these restrictions in their efforts to eliminate fraud in the Food Stamp Program. My bill would enhance the Department's investigative activities by allowing them to match and verify existing information on retailers in their efforts to provide evidence of violations of the Food Stamp Act by retail establishments. This legislation ex-

pands the use of the retailer's i.d. numbers so that law enforcement and investigative agencies, such as the FBI, the IRS, the Office of Inspector General [OIG], and the Financial Crimes Enforcement Network [FINCEN] could use the i.d. numbers to verify the identity of violators.

Let me give you an example of how this legislation will help the Department locate abusers. Someone could go into a retail food store with \$50 in food stamps and ask the storekeeper of the food concern to pay \$.60 on the dollar for the coupons. If the storekeeper agreed to the exchange, the recipient could come out of the deal with \$30 in hard cash, and the retailer would end up with an extra \$20 after cashing the coupons in, all without food products ever exchanging hands. It is obvious there are two guilty parties here: the recipient and the retailer.

The Department has the rules and authority in place to handle the investigation of such an incident; however, they do not have the ability to follow through and positively identify the retailer. When the investigators need to confirm the amount of food sales and coupon redemption information, they must rely solely on the information reported by that retailer. My legislation will give the Department the possibility of calling the IRS, or State taxing authorities, to check the data.

States already have this ability to verify eligibility information by using Social Security numbers for a variety of Federal programs, including AFDC, Medicaid, Supplemental Security Income and the Unemployment Compensation Program. USDA currently has the authority to verify the information provided by the recipients of food stamps, but they do not have the same access to check the information provided by retailers. This legislation will make our laws consistent and allow USDA to verify information provided by the retailers who accept or want to accept food stamps when needed.

My bill also beefs up the penalties against both recipients and retailers if they are found to have traded food stamps for guns, drugs, ammunition, or explosives. The cap that is currently placed on the civil money penalties for retailers would be lifted, and a recipient would be permanently disqualified if they traded their food stamps for the aforementioned items. This is not an unreasonable punishment for these people who have been found to so blatantly abuse this Government program.

I want to stress that the vast majority of participants in the Food Stamp Program, be it recipients or retailers, are not involved in illegal activities. Most of the participants are honest, trustworthy citizens, and the stories of food stamp fraud you hear do not occur every day, but they do happen. The



Food Stamp Anti-Fraud Act does not change the rules of the game, it only changes the penalties for violators and gives the Department the necessary tools to build the integrity of the program.

This legislation does not change eligibility requirements for recipients or retailers. It will not affect the honest participants in the Food Stamp Program. It will help our government find and eliminate fraud in our Nation's largest food assistance program.

By Mr. DURENBERGER (for himself and Mr. KENNEDY):

S. 3315. A bill to provide for an endowment grant program to support the establishment of regional centers that promote locally based, volunteer-operated, private citizens' scholarship programs, and for other purposes; to the Committee on Labor and Human Resources.

**DOLLARS FOR SCHOLARS COMMUNITY SCHOLARSHIP FOUNDATION DEVELOPMENT ACT**  
 • Mr. DURENBERGER. Mr. President, I rise today to join with my distinguished colleague from Massachusetts, Senator KENNEDY, in introducing the Dollars for Scholars Community Scholarship Foundation Development Act.

This important piece of legislation is designed to help establish community-based scholarship foundations in towns, cities, and neighborhoods all over America. It would authorize a one-time investment of \$40 million to help establish 25 area offices to help stimulate establishment of these local foundations.

Based on Dollars for Scholars experience all over the country, it's estimated that this investment will result in:

The startup of over 2,000 local scholarship chapters by the year 2000 and 4,000 local chapters by the year 2005;

Over \$200 million in new private sector support for college scholarships by the year 2000 and over \$750 million by the year 2005;

And, more than 100,000 volunteers encouraging and supporting their local students who go on to college.

Mr. President, many of us both on and off the Labor Committee spent much of the past 18 months completing action on a 5-year reauthorization of the Federal Higher Education Act.

We made a lot of progress during that reauthorization in making student loans and grants more available to more students, including students more from middle-income families.

And, I'm especially proud that my IDEA proposal—for direct loans that base their repayment on post-college income—will be tested in higher education institutions all around the country beginning in 1994.

But, despite all of what we were able to do in this year's higher-ed bill, we still haven't met the commitment to higher education this Nation owes its

next generation. We still need to encourage more of what Dollars for Scholars is doing every day in towns and cities and neighborhoods all across America.

Even in Washington, \$40 million is a lot of money. But, I'm viewing this bill as a solid investment—an investment that will pay back much more than it costs up front by leveraging hundreds of millions of dollars in new private-sector support for higher education.

That's one important purpose behind this bill—to get more private-sector resources committed to higher education—in towns and cities and neighborhoods all over America.

Dollars for Scholars has a proven track record in getting that job done. I saw evidence of that record recently when I helped honor the first-ever Dollars for Scholars scholarship winners from Minneapolis North High School. As I met these students, their teachers, parents, and chapter officers, I could tell this program is going to help these students do great things—in college and throughout their lives and careers.

So, I'm firmly convinced that this legislation is one of the best investments the Federal Government could ever use to make it possible for thousands of bright and ambitious Americans of all ages go to college.

There are also two other benefits of this legislation, Mr. President, that I would like to point out.

First, having a local Dollars for Scholars Program makes an important statement to young people about the value their home community places on higher education.

A program like this provides a tangible incentive to remain in high school, to work hard, and to take all the right steps to get ready for both the opportunities and challenges of going to college.

Those are all reasons I've also been urging Education Secretary Lamar Alexander to make Dollars for Scholars a central element in the President's America 2000 initiative.

On top of the message it sends, Dollars for Scholars also adds a degree of personal accountability that might be missing in many other state or federally funded student aid programs.

Experience has taught us, Mr. President, that students who receive scholarships donated by friends and neighbors will work extra hard in college knowing that the folks back home are cheering them on.

On those dark days when you'd just as soon hang it all up, there's that little extra incentive to make good on the investment that the people you care about the most have made in you and in your future.

That's why I'm so excited about introducing this bill and together with Senator KENNEDY making this bill an important cornerstone of our work to encourage public private partnerships

in next year's reauthorization of the Elementary and Secondary Education Act.

Mr. President, I would ask unanimous consent that the full text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3315

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Dollars for Scholars Community Scholarship Foundation Development Act".

#### SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the local community, when properly organized and challenged, is one of the best sources of academic support, motivation towards achievement, and financial resources for aspiring postsecondary students;

(2) local communities, working to complement or augment services being offered by area schools and colleges, can raise the educational expectations and increase the rate of college attendance of their youth by forming locally based organizations that provide both academic support (including guidance, counseling, mentoring, tutoring, encouragement, and recognition) and tangible, locally raised, effectively targeted, publicly recognized financial assistance;

(3) proven methods of stimulating such community efforts can be promoted through Federal support for the establishment of regional centers that organize and challenge community efforts to develop educational incentives and support for local students; and

(4) using Federal funds to leverage private contributions to help students attain educational and career goals is an efficient and effective investment of scarce taxpayer-provided resources.

(b) PURPOSE.—It is the purpose of this Act to establish not more than 25 regional centers to promote the development of locally based, volunteer organizations which encourage students to participate in postsecondary education by—

(1) providing academic support, including guidance, counseling, mentoring, tutoring, and recognition; and

(2) providing financial assistance for the pursuit of postsecondary education.

#### SEC. 3. PROGRAM AUTHORIZED.

(a) PROGRAM ESTABLISHED.—From amounts made available to the Secretary pursuant to section 7(a) in each fiscal year, the Secretary shall award a grant to an eligible organization having an agreement with the Secretary under section 5 to enable such organization to support the establishment of not more than 25 regional centers that foster the development of community scholarship foundations to improve high school graduation rates and postsecondary attendance through the provision of academic support services and tangible financial assistance for the pursuit of postsecondary education.

(b) REGIONAL CENTERS.—The regional centers established under subsection (a) shall be—

(1) part of, responsible to, and overseen by, the eligible organization; and

(2) staffed by professionals trained to create, develop, and sustain community scholarship foundations in towns, cities, and neighborhoods.

**SEC. 4. ELIGIBILITY.**

(a) **ELIGIBLE ORGANIZATION.**—An organization shall be eligible for an endowment grant under section 3 if such organization—

(1) has extensive experience in creating, developing, and sustaining community scholarship foundations;

(2) has demonstrated the capacity to sustain newly created community scholarship foundations through ongoing training and support programs;

(3) has been in existence for a period of 5 years prior to the date of enactment of this Act;

(4) is exempt from income taxes under section 501(c)(3) of the Internal Revenue Code of 1986;

(5) ensures that each of such organization's local affiliated chapters meets the criteria specified in paragraph (4);

(6) has received a ruling that provides the option for each new community scholarship foundation affiliated with such organization to file Form 990 under such organization's group roster;

(7) has a program for or experience in cooperating with secondary and postsecondary institutions in carrying out its scholarship and academic support activities; and

(8) has local affiliated chapters described in subsection (b).

(b) **LOCAL AFFILIATED CHAPTERS.**—Each local affiliated chapter of an eligible organization described in subsection (a) shall—

(1) be a nonprofit organization, recognized as tax exempt under section 501(c)(3) of the Internal Revenue Code of 1986 (or shall meet this criteria through affiliation with the eligible organization in accordance with subsection (a) of this section;

(2) be formed for the purpose of providing educational scholarships for local residents;

(3) solicit broad-based community support in its fund-raising activities;

(4) be broadly representative of the local community in the structures of its volunteer-operated organization and have a board of directors that includes leaders from local neighborhood organizations and neighborhood residents, such as school or postsecondary personnel, parents, students, community agency representatives, and representatives of the business community;

(5) award scholarships without regard to age, sex, marital status, race, creed, color, religion, national origin or the presence of disability; and

(6) give priority in awarding scholarships to needy students in its local community.

**SEC. 5. CONDITIONS FOR GRANT.**

The Secretary shall make the endowment grant under this Act on the basis of an agreement with an eligible organization that—

(1) contains such terms and conditions as may be necessary to ensure that the endowment funds will be used to support a program development officer and office who will work with local communities to establish community scholarship foundations and provide ongoing technical assistance, training workshops, and other activities to help ensure the ongoing success of such foundations;

(2) contains terms and conditions requiring the eligible organization to establish regional centers serving each area of the United States (including the territories and possessions of the United States);

(3) contains terms and conditions specifying that, if appropriated funds are not sufficient to support 25 regional centers, the eligible organization establishing such centers will give preference to those areas of the United States with higher than average school dropout rates and lower than average postsecondary institutional enrollment; and

(4) contains such assurances as the Secretary may require with respect to the management and operation of the endowment funds.

**SEC. 6. DOLLARS FOR SCHOLARS ENDOWMENT FUND.**

(a) **ESTABLISHMENT.**—There is established in the Treasury of the United States an endowment fund to be known as the Dollars for Scholars Endowment Fund. The Fund shall consist of amounts appropriated to the Fund pursuant to section 10 of this Act.

(b) **INVESTMENT.**—It shall be the duty of the Secretary of the Treasury to invest in full amounts appropriated to the Fund. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of special obligations exclusively to the Fund. Such special obligation shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt, except that where such average rate is not a multiple of one-eighth of 1 percent, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Secretary of the Treasury determines that the purchase of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States or original issue or at the market price, is not in the public interest.

(c) **SALE AND REDEMPTION.**—Any obligation acquired by the Fund (except special obligations issued exclusively to the Fund) may be sold by the Secretary of the Treasury at the market price, and such special obligations may be redeemed at par plus accrued interest.

(d) **INTEREST AND PROCEEDS.**—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

**SEC. 7. EXPENDITURES FROM THE FUND.**

(a) **IN GENERAL.**—The interest and earnings of the Fund shall be available annually to the Secretary to enable the Secretary to award a grant annually to an eligible organization in accordance with this Act.

(b) **AUDIT.**—The activities of each eligible organization receiving a grant under this Act may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, and files and all other papers, things, or property belonging to or in use by the eligible organization, pertaining to such activities and necessary to facilitate the audit.

**SEC. 8. REPORT; TERMINATION OF GRANT PAYMENTS.**

(a) **REPORT.**—Each eligible organization receiving a grant under this Act shall annually prepare and submit to the Secretary a report demonstrating such organizations compliance with the provision of this Act.

(b) **TERMINATION.**—The Secretary shall terminate grant payments under this Act for any eligible organization which the Secretary determines is not in compliance with the provisions of this Act.

**SEC. 9. DEFINITIONS.**

For the purposes of this Act—

(1) the term "Fund" means the Dollars for Scholars Endowment Fund established in section 6(a);

(2) the term "Secretary", unless otherwise specified, means the Secretary of Education; and

(3) the term "community scholarship foundation" means a tax-exempt, publicly supported, locally organized, volunteer-operated, broadly representative organization (formed in towns, rural communities, or neighborhoods of large cities) whose purpose is to raise funds for local scholarships, make scholarship awards to local deserving students, and provide academic support activities to encourage educational achievement.

**SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to the Fund \$40,000,000 for fiscal year 1993 to carry out this Act.

**ADDITIONAL COSPONSORS**

S. 3092

At the request of Mr. NUNN, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 3092, a bill to amend the charter of the Group Hospitalization and Medical Services, Inc., to remove the partial exemption granted to the corporation from the insurance laws and regulations of the District of Columbia.

S. 3295

At the request of Mr. MCCAIN, his name was added as a cosponsor of S. 3295, a bill to amend title 10, United States Code, to establish within the Office of the Secretary of Defense the position of Director of Criminal Investigations; and for other purposes.

At the request of Mr. DECONCINI, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 3295, supra.

**ADDITIONAL COSPONSORS**

The additional cosponsors for October 2, 1992, are as follows:

S. 15

At the request of Mr. BIDEN, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 15, a bill to combat violence and crimes against women on the streets and in homes.

S. 492

At the request of Mr. SIMON, the name of the Senator from Kentucky [Mr. FORD] was added as a cosponsor of S. 492, a bill to amend the National Labor Relations Act to give employers and performers in the live performing arts, rights given by section 8(e) of such Act to employers and employees in similarly situated industries, to give to such employers and performers the same rights given by section 8(f) of



such Act to employers and employees in the construction industry, and for other purposes.

S. 781

At the request of Mr. SARBANES, the name of the Senator from Texas [Mr. GRAMM] was added as a cosponsor of S. 781, a bill to authorize the Indian American Forum for Political Education to establish a memorial to Mahatma Gandhi in the District of Columbia.

S. 1372

At the request of Mr. WOFFORD, his name was added as a cosponsor of S. 1372, a bill to amend the Federal Communications Act of 1934 to prevent the loss of existing spectrum to Amateur Radio Service.

S. 1777

At the request of Mr. SPECTER, his name was added as a cosponsor of S. 1777, a bill to amend the Public Health Service Act to establish the authority for the regulation of mammography services and radiological equipment, and for other purposes.

S. 2362

At the request of Mr. MCCAIN, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of S. 2362, a bill to amend title XVIII of the Social Security Act to repeal the reduced Medicare payment provision for new physicians.

S. 2810

At the request of Mr. GORE, the names of the Senator from Ohio [Mr. GLENN] and the Senator from North Carolina [Mr. SANFORD] were added as cosponsors of S. 2810, a bill to recognize the unique status of local exchange carriers in providing the public switched network infrastructure and to ensure the broad availability of advanced public switched network infrastructure.

S. 2841

At the request of Mr. D'AMATO, the names of the Senator from Pennsylvania [Mr. SPECTER], the Senator from West Virginia [Mr. BYRD], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Mississippi [Mr. LOTT], and the Senator from Rhode Island [Mr. CHAFEE] were added as cosponsors of S. 2841, a bill to provide for the minting of coins to commemorate the World University Games.

S. 2949

At the request of Mr. BAUCUS, his name was added as a cosponsor of S. 2949, a bill to amend the Public Health Service Act to provide for the conduct of expanded research and the establishment of innovative programs and policies with respect to traumatic brain injury, and for other purposes.

S. 2957

At the request of Mr. SPECTER, his name was added as a cosponsor of S. 2957, a bill to amend the Internal Revenue Code of 1986 to exclude from the gross estate the value of land subject

to a qualified conservation easement if certain conditions are satisfied, to permit a qualified conservation contribution where the probability of surface mining is remote, and to defer some of the scheduled reduction in estate tax rates.

S. 3002

At the request of Mr. BAUCUS, his name was added as a cosponsor of S. 3002, a bill to amend title XIX of the Social Security Act to provide for optional coverage under State Medicaid plans of case-management services for individuals who sustain traumatic brain injuries, and for other purposes.

S. 3119

At the request of Mr. CONRAD, the name of the Senator from Pennsylvania [Mr. WOFFORD] was added as a cosponsor of S. 3119, a bill to establish a National Appeals Division of the Department of Agriculture to hear appeals of adverse decisions made by certain agencies of the Department, and for other purposes.

S. 3228

At the request of Mr. BOREN, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 3228, a bill to amend the Forest and Rangeland Renewable Resources Planning Act of 1974 to strengthen the protection of native biodiversity and to place restraints on clearcutting and certain other cutting practices on the forests of the United States, and for other purposes.

S. 3278

At the request of Mr. BAUCUS, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 3278, a bill to amend the Internal Revenue Code to exempt companies from the railroad retirement and unemployment taxes.

SENATE JOINT RESOLUTION 300

At the request of Mr. SIMON, the names of the Senator from North Dakota [Mr. CONRAD], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Illinois [Mr. DIXON], the Senator from Idaho [Mr. SYMMS], the Senator from Idaho [Mr. CRAIG], the Senator from Missouri [Mr. DANFORTH], the Senator from Pennsylvania [Mr. WOFFORD], and the Senator from Hawaii [Mr. INOUE] were added as cosponsors of Senate Joint Resolution 300, a joint resolution to designate the week commencing October 4, 1992, as "National Aviation Education Week."

SENATE JOINT RESOLUTION 311

At the request of Mr. SEYMOUR, the names of the Senator from Nevada [Mr. BRYAN], and the Senator from Wyoming [Mr. WALLOP] were added as cosponsors of Senate Joint Resolution 311, a joint resolution designating February 21, 1993, through February 27, 1993, as "American Wine Appreciation Week," and for other purposes.

SENATE JOINT RESOLUTION 321

At the request of Mr. KOHL, the name of the Senator from Nevada [Mr.

BRYAN] was added as a cosponsor of Senate Joint Resolution 321, a joint resolution designating the week beginning March 21, 1993, as "National Endometriosis Awareness Week."

SENATE JOINT RESOLUTION 328

At the request of Mr. COCHRAN, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of Senate Joint Resolution 328, a joint resolution to acknowledge the sacrifices that military families have made on behalf of the Nation and to designate November 23, 1992, as "National Military Families Recognition Day."

SENATE JOINT RESOLUTION 338

At the request of Mr. GRASSLEY, his name was withdrawn as a cosponsor of Senate Joint Resolution 338, a joint resolution designating the week beginning October 24, 1992 as "World Population Awareness Week."

## AMENDMENTS SUBMITTED

### NATIONAL INSTITUTES OF HEALTH REVITALIZATION AMENDMENTS OF 1992

#### BURNS AMENDMENTS NOS. 3394 THROUGH 3397

(Ordered to lie on the table.)

Mr. BURNS submitted four amendments intended to be proposed by him to the bill (S. 2899) to amend the Public Health Service Act to revise and extend the programs of the National Institutes of Health, and for other purposes, as follows:

#### AMENDMENT No. 3394

At the appropriate place, insert the following new section:

SEC. . No fewer than one-fourth of the members shall be from a rural State. "Rural" in this instance is defined as a State in which the population has fewer than one million people and there are fewer than ten people per square mile.

#### AMENDMENT No. 3395

At the appropriate place, insert the following new section:

SEC. . Whereas, the State of Montana has been a leader in many areas of scientific research and continues to be in the forefront of scientific discovery, the Office of Scientific Integrity, an independent entity, shall, following an allotted time for bidding by the principal cities, be located in the State of Montana.

#### AMENDMENT No. 3396

At the appropriate place, insert the following new section:

SEC. . Of the grant applications received, forty (40) percent of the monies shall be designated for rural States. "Rural" is defined in this case as any State which has a population of fewer than one million in an area greater than 100,000 square miles.

Included among purposes for which a grant may be made is the demonstration of telemedicine. Special consideration should be

given to demonstration projects that involve rural outreach.

#### AMENDMENT NO. 3397

At the appropriate place, insert the following new section:

**SEC. . TELECOMMUNICATIONS AND RURAL HEALTH.**—The Secretary of Health and Human Services shall conduct a two-year study, and subsequently issue a report, determining the impact of telecommunications on the delivery of health care services to rural areas or areas considered to be Health Professional Shortage Areas [HPSA's].

In conducting this study, the Secretary shall use data gathered by Telemedicine projects now in existence and provide grants to encourage other demonstration projects in rural settings.

The Secretary shall also, with the assistance of the Director of the National Library of Medicine, determine the impact of providing continuing education and training to health care providers through telecommunications.

For the purpose of carrying out this subsection, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1993 through 1995.

#### SMALL BUSINESS INNOVATION DEVELOPMENT AMENDMENT ACT OF 1992

##### LEVIN (AND BUMPERS) AMENDMENT NO. 3398

Mr. FORD (for Mr. LEVIN and Mr. BUMPERS) proposed an amendment to the bill (S. 2941) to provide the Administrator of the Small Business Administration continued authority to administer the Small Business Innovation Research Program, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the "Small Business Research and Development Enhancement Act of 1992".

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

#### TITLE I—SMALL BUSINESS INNOVATION RESEARCH PROGRAM

Sec. 101. Short title.

Sec. 102. Findings and purposes.

Sec. 103. Amendments to small business innovation research program.

Sec. 104. Extension of SBIR program.

Sec. 105. Reports of the Comptroller General.

Sec. 106. Recommendations of the Secretary of Defense.

#### TITLE II—SMALL BUSINESS TECHNOLOGY TRANSFER PILOT PROGRAM

Sec. 201. Short title.

Sec. 202. Establishment of small business technology transfer pilot program.

#### TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. Discretionary technical assistance to SBIR awardees.

Sec. 302. Extension of the technology transfer demonstration program.

Sec. 303. Reporting requirements.

Sec. 304. Small Business Institutes.

Sec. 305. Additional SBIR and STTR provisions.

Sec. 306. Sense of the Congress concerning American-made equipment and products.

Sec. 307. Technical corrections.

#### TITLE I—SMALL BUSINESS INNOVATION RESEARCH PROGRAM

##### SEC. 101. SHORT TITLE.

This title may be cited as the "Small Business Innovation Research Program Reauthorization Act of 1992".

##### SEC. 102. FINDINGS AND PURPOSES.

(a) **FINDINGS.**—The Congress finds that—

(1) the small business innovation research program established under the Small Business Innovation Development Act of 1982, (hereafter in this Act referred to as the "SBIR" program) has been a successful method of involving small business concerns in Federal research and development;

(2) the small business innovation research program has been an effective catalyst for the development of technological innovations by small business concerns;

(3) small business innovation research program participants have provided high quality research and development in a cost-effective manner;

(4) the innovative products and services developed by small business concerns participating in the small business innovation research program have been important to the national defense, as well as to the missions of the other participating Federal agencies;

(5) the small business innovation research program has effectively stimulated the commercialization of technology developed through Federal research and development, benefiting both the public and private sectors of the Nation;

(6) by encouraging the development and commercialization of technological innovations, the small business innovation research program has created jobs, expanded business opportunities for small firms, stimulated the development of new products and services, and improved the competitiveness of the Nation's high technology industries;

(7) the small business innovation research program has also helped to increase exports from small business concerns;

(8) despite the general success of the small business innovation research program, the proportion of Federal research and development funds received by small business concerns has not increased over the life of the program, but has remained at 3 percent; and

(9) although the participating Federal agencies have successfully implemented most aspects of the small business innovation research program, additional outreach efforts are necessary to stimulate increased participation of socially and economically disadvantaged small business concerns.

(b) **PURPOSES.**—The purposes of this title are—

(1) to expand and improve the small business innovation research program;

(2) to emphasize the program's goal of increasing private sector commercialization of technology developed through Federal research and development;

(3) to increase small business participation in Federal research and development; and

(4) to improve the Federal Government's dissemination of information concerning the small business innovation research program, particularly with regard to program participation by women-owned small business concerns and by socially and economically disadvantaged small business concerns.

##### SEC. 103. AMENDMENTS TO SMALL BUSINESS INNOVATION RESEARCH PROGRAM.

(a) **DEFINITION OF THE SMALL BUSINESS INNOVATION RESEARCH PROGRAM.**—Section

9(e)(4) of the Small Business Act (15 U.S.C. 638(e)(4)) is amended—

(1) in subparagraph (A), by inserting "that appear to have commercial potential, as described in subparagraph (B)(ii)," after "ideas"; and

(2) by striking subparagraphs (B) and (C) and inserting the following:

"(B) a second phase, to further develop proposals which meet particular program needs, in which awards shall be made based on the scientific and technical merit and feasibility of the proposals, as evidenced by the first phase, considering, among other things, the proposal's commercial potential, as evidenced by—

"(i) the small business concern's record of successfully commercializing SBIR or other research;

"(ii) the existence of second phase funding commitments from private sector or non-SBIR funding sources;

"(iii) the existence of third phase, follow-on commitments for the subject of the research; and

"(iv) the presence of other indicators of the commercial potential of the idea; and

"(C) where appropriate, a third phase—

"(i) in which commercial applications of SBIR-funded research or research and development are funded by non-Federal sources of capital or, for products or services intended for use by the Federal Government, by follow-on non-SBIR Federal funding awards; and

"(ii) for which awards from non-SBIR Federal funding sources are used for the continuation of research or research and development that has been competitively selected using peer review or scientific review criteria; and".

(b) **REQUIRED EXPENDITURES FOR SBIR BY FEDERAL AGENCIES.**—Section 9(f) of the Small Business Act (15 U.S.C. 638(f)) is amended to read as follows:

"(f) **FEDERAL AGENCY EXPENDITURES FOR THE SBIR PROGRAM.**—

"(1) **REQUIRED EXPENDITURE AMOUNTS.**—Each Federal agency which has an extramural budget for research or research and development in excess of \$100,000,000 for fiscal year 1992, or any fiscal year thereafter, shall expend with small business concerns—

"(A) not less than 1.5 percent of such budget in each of fiscal years 1993 and 1994;

"(B) not less than 2.0 percent of such budget in each of fiscal years 1995 and 1996; and

"(C) not less than 2.5 percent of such budget in each fiscal year thereafter,

specifically in connection with SBIR programs which meet the requirements of this section, policy directives, and regulations issued under this section.

"(2) **LIMITATIONS.**—A Federal agency shall not—

"(A) use any of its SBIR budget established pursuant to paragraph (1) for the purpose of funding administrative costs of the program, including costs associated with salaries and expenses; or

"(B) make available for the purpose of meeting the requirements of paragraph (1) an amount of its extramural budget for basic research which exceeds the percentages specified in paragraph (1).

"(3) **EXCLUSION OF CERTAIN FUNDING AGREEMENTS.**—Funding agreements with small business concerns for research or research and development which result from competitive or single source selections other than an SBIR program shall not be considered to meet any portion of the percentage requirements of paragraph (1)."

(c) **INCLUSION OF CERTAIN DEPARTMENT OF DEFENSE RESEARCH AND DEVELOPMENT AC-**



TIVITIES.—Section 9(e) of the Small Business Act (15 U.S.C. 638(e)) is amended in paragraph (1), by striking "for the Department of Defense" and all that follows through "development" and inserting "for the Department of Energy it shall not include amounts obligated for atomic energy defense programs solely for weapons activities or for naval reactor programs".

(d) SBIR SOLICITATIONS.—Section 9(g) of the Small Business Act (15 U.S.C. 638(g)) is amended—

(1) by redesignating paragraphs (3) through (7) as paragraphs (4) through (8), respectively; and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) unilaterally determine research topics within the agency's SBIR solicitations, giving special consideration to broad research topics and to topics that further 1 or more critical technologies, as identified by—

"(A) the National Critical Technologies Panel (or its successor) in the 1991 report required under section 603 of the National Science and Technology Policy, Organization, and Priorities Act of 1976, and in subsequent reports issued under that authority; or

"(B) the Secretary of Defense, in the 1992 report issued in accordance with section 2522 of title 10, United States Code, and in subsequent reports issued under that authority;"

(e) DEADLINE FOR FINAL PAYMENT UNDER SBIR FUNDING AGREEMENTS.—Section 9(g)(7) of the Small Business Act (15 U.S.C. 638(g)(7)) (as redesignated by subsection (d)(1)) is amended by inserting before the semicolon the following: "and, in all cases, make payment to recipients under such agreements in full, subject to audit, on or before the last day of the 12-month period beginning on the date of completion of such requirements".

(f) MODIFICATIONS TO SBIR POLICY DIRECTIVES.—Section 9(j) of the Small Business Act (15 U.S.C. 638(j)) is amended—

(1) in paragraph (2), by redesignating subparagraphs (A) through (H) as clauses (i) through (viii), respectively;

(2) by redesignating paragraphs (1) through (7) as subparagraphs (A) through (G), respectively;

(3) by inserting before "The Small Business Administration" the following:

"(1) POLICY DIRECTIVES.—"; and

(4) by adding at the end the following new paragraph:

"(2) MODIFICATIONS.—Not later than 90 days after the date of enactment of the Small Business Research and Development Enhancement Act of 1992, the Administrator shall modify the policy directives issued pursuant to this subsection to provide for—

"(A) retention by a small business concern of the rights to data generated by the concern in the performance of an SBIR award for a period of not less than 4 years;

"(B) continued use by a small business concern participating in the third phase of the SBIR program, as a directed bailment, of any property transferred by a Federal agency to the small business concern in the second phase of an SBIR program for a period of not less than 2 years, beginning on the initial date of the concern's participation in the third phase of such program;

"(C) procedures to ensure, to the extent practicable, that an agency which intends to pursue research, development, or production of a technology developed by a small business concern under an SBIR program enters into follow-on, non-SBIR funding agreements with the small business concern for such research, development, or production;

"(D) an increase to \$100,000 in the amount of funds which an agency may award in the first phase of an SBIR program, and to \$750,000 in the second phase of an SBIR program, and an adjustment of such amounts once every 5 years to reflect economic adjustments and programmatic considerations;

"(E) a process for notifying the participating SBIR agencies and potential SBIR participants of the 1991, 1992, and the current critical technologies, as identified—

"(i) by the National Critical Technologies Panel (or its successor), in accordance with section 603 of the National Science and Technology Policy, Organization, and Priorities Act of 1976; or

"(ii) by the Secretary of Defense, in accordance with section 2522 of title 10, United States Code;

"(F) enhanced outreach efforts to increase the participation of socially and economically disadvantaged small business concerns, as defined in section 8(a)(4), and the participation of small businesses that are 51 percent owned and controlled by women in technological innovation and in SBIR programs, including the third phase of such programs, and the collection of data to document such participation;

"(G) technical and programmatic guidance to encourage agencies to develop gap-funding programs to address the delay between an award for the first phase of an SBIR program and the application for and extension of an award for the second phase of such program;

"(H) procedures to ensure that a small business concern that submits a proposal for a funding agreement for the first phase of an SBIR program and that has received more than 15 second phase SBIR awards during the preceding 5 fiscal years is able to demonstrate the extent to which it was able to secure third phase funding to develop concepts resulting from previous second phase SBIR awards; and

"(I) procedures to ensure that agencies participating in the SBIR program retain the information submitted under subparagraph (H) at least until the General Accounting Office submits the report required under section 105 of the Small Business Research and Development Enhancement Act of 1992."

(g) ELIMINATION OF SURVEYING AND REPORTING REQUIREMENT.—Section 9(k) of the Small Business Act (15 U.S.C. 638(k)) is amended to read as follows:

"(k) [Reserved]."

(h) REPORTING OF AWARDS MADE FROM SINGLE PROPOSAL, TO MULTIPLE AWARD WINNERS, OR TO CRITICAL TECHNOLOGY TOPICS.—

(1) IN GENERAL.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended by adding at the end the following new subsection:

"(1) REPORTING OF AWARDS MADE FROM SINGLE PROPOSAL, TO MULTIPLE AWARD WINNERS, OR TO CRITICAL TECHNOLOGY TOPICS.—

"(1) SINGLE PROPOSAL.—If a Federal agency required to establish an SBIR program under subsection (f) makes an award with respect to an SBIR solicitation topic or subtopic for which the agency received only 1 proposal, the agency shall provide written justification for making the award in its next quarterly report to the Administration and in the agency's next annual report required under subsection (g)(8).

"(2) MULTIPLE AWARDS.—An agency referred to in paragraph (1) shall include in its next annual report required under subsection (g)(8) an accounting of the awards the agency has made for the first phase of an SBIR program during the reporting period to entities

that have received more than 15 awards for the second phase of an SBIR program during the preceding 5 fiscal years.

"(3) CRITICAL TECHNOLOGY AWARDS.—An agency referred to in paragraph (1) shall include in its next annual report required under subsection (g)(8), an accounting of the number of awards it has made to critical technology topics, as defined in subsection (g)(3), including an identification of the specific critical technologies topics, and the percentage by number and dollar amount of the agency's total SBIR awards to such critical technology topics."

(2) CONFORMING AMENDMENT.—Section 9(g)(5) of the Small Business Act (15 U.S.C. 638(g)(5)) (as redesignated by subsection (d)) is amended by inserting "subject to subsection (l)," before "unilaterally".

(i) INFORMATION ON ALLOWABLE EXPENSES.—Section 9(g)(5) of the Small Business Act (as redesignated by subsection (d)) is amended by inserting before the semicolon the following: "and inform each awardee under such an agreement, to the extent possible, of the expenses of the awardee that will be allowable under the funding agreement".

#### SEC. 104. EXTENSION OF SBIR PROGRAM.

(a) REPEAL PROVISION.—Section 5 of the Small Business Innovation Development Act of 1982 is hereby repealed.

(b) TERMINATION DATE.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended by adding at the end the following:

"(m) TERMINATION.—The authorization to carry out the Small Business Innovation Research Program under this section shall terminate on October 1, 2000."

#### SEC. 105. REPORTS OF THE COMPTROLLER GENERAL.

(a) INTERIM REPORT.—

(1) IN GENERAL.—The Comptroller General of the United States shall submit to the Congress an interim report concerning the quality of research performed under SBIR program funding agreements entered into during fiscal year 1993 and thereafter. Copies of the interim report shall be furnished to each agency that has participated in the SBIR program in fiscal year 1993 or thereafter.

(2) CONTENTS OF REPORT.—The Comptroller General shall include in the interim report required under paragraph (1)—

(A) an assessment of the quality of the research performed under the SBIR program funding agreements entered into by each agency that has participated in the SBIR program beginning in fiscal year 1993 or thereafter, specifically addressing—

(i) with respect to each such agency, whether or not there has been a demonstrable reduction in research quality; and

(ii) in the case of such reduction, whether an increase in each such agency's required SBIR participation in accordance with section 9(f)(1) of the Small Business Act (as amended by subsection (b) of this section) would adversely affect the performance of the agency's research programs;

(B) an analysis of the program authorized by section 301 of the Small Business Research and Development Enhancement Act of 1992, considering, among other things—

(i) the extent to which each SBIR agency has implemented the program and the extent to which the program has improved the quality of agency-sponsored research and development;

(ii) the effect of the program on recipient companies' ability to develop and commercialize technology;

(iii) the cost of the program and the average cost per recipient company; and

(iv) the extent to which SBIR companies continue to use the service after completion of the program; and

(C) such other factors as the Comptroller General may deem appropriate.

(b) **FINAL REPORT.**—The Comptroller General of the United States shall transmit to the Congress a final report containing—

(1) a review of the progress made by Federal agencies in meeting the requirements of section 9(f) of the Small Business Act (as amended by this Act), including increases in expenditures required by that subsection;

(2) an analysis of participation by small business concerns in the third phase of SBIR programs, including a systematic evaluation of the techniques adopted by Federal agencies to foster commercialization;

(3) an analysis of the extent to which awards under SBIR programs are made pursuant to section 9(l) of the Small Business Act (as added by section 103(h)) in cases in which a program solicitation receives only 1 proposal;

(4) an analysis of the extent to which awards in the first phase of the SBIR program are made to small business concerns that have received more than 15 second phase awards under the SBIR program in the preceding 5 fiscal years, considering—

(A) the extent to which such concerns were able to secure Federal or private sector follow-on funding;

(B) the extent to which the research developed under such awards was commercialized; and

(C) the amount of commercialization of research developed under such awards, as compared to the amount of commercialization of SBIR research for the entire SBIR program;

(5) the results of periodic random audits of the extramural budget of each such Federal agency;

(6) a review of the extent to which the purposes of this title and the Small Business Innovation Development Act of 1982 have been met with regard to fostering and encouraging the participation of women-owned small business concerns and socially and economically disadvantaged small business concerns (as defined in the Small Business Act) in technological innovation, in general, and the SBIR program, in particular;

(7) an analysis of the effectiveness of the SBIR program in promoting the development of the critical technologies identified by the Secretary of Defense and the National Critical Technologies Panel (or its successor), as described in subparagraph 9(j)(2)(E) of the Small Business Act;

(8) an analysis of the impact of agency application review periods and funding cycles on SBIR program awardees' financial status and ability to commercialize; and

(9) recommendations to the Congress for tracking the extent to which foreign firms, or United States firms with substantial foreign ownership interests, benefit from technology or products developed as a direct result of SBIR research or research and development.

(c) **DATES OF SUBMISSION.**—The report required—

(1) under subsection (a), shall be submitted to the Congress not later than March 31, 1995; and

(2) under subsection (b), shall be submitted to the Congress not later than 5 years after the date of enactment of this title.

#### SEC. 106. RECOMMENDATIONS OF THE SECRETARY OF DEFENSE.

Not later than March 31, 1996, the Secretary of Defense shall submit a recommendation to the Congress addressing whether there has been a demonstrable reduction in the quality of research performed under the SBIR program since the beginning of fiscal year 1993, such that increasing the percentage under section 9(f)(1)(C) of the Small Business Act (as amended by section 103 of this Act) would adversely affect the performance of the research programs of the Department of Defense.

#### TITLE II—SMALL BUSINESS TECHNOLOGY TRANSFER PILOT PROGRAM

##### SEC. 201. SHORT TITLE.

This title may be cited as the "Small Business Technology Transfer Act of 1992".

##### SEC. 202. ESTABLISHMENT OF SMALL BUSINESS TECHNOLOGY TRANSFER PILOT PROGRAM.

(a) **ADDITIONAL SBA DUTIES.**—Section 9(b) of the Small Business Act (15 U.S.C. 638(b)) is amended—

(1) in paragraph (4), by inserting "and small business technology transfer pilot programs" after "small business innovation research programs"; and

(2) in paragraphs (5), (6), and (7), by inserting "and STTR" after "SBIR" each place such term appears.

(b) **SMALL BUSINESS TECHNOLOGY TRANSFER PILOT PROGRAM DEFINED.**—Section 9(e) of the Small Business Act (15 U.S.C. 638(e)) is amended—

(1) in paragraph (4), by striking "and" at the end;

(2) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(6) the term 'Small Business Technology Transfer Program' or 'STTR' means a pilot program under which a portion of a Federal agency's extramural research or research and development effort is reserved for awards to small business concerns for cooperative research and development through a uniform process having—

"(A) a first phase, to determine, to the extent possible, the scientific, technical, and commercial merit and feasibility of ideas submitted pursuant to STTR program solicitations;

"(B) a second phase, to further develop proposed ideas to meet particular program needs, in which awards shall be made based on the scientific, technical, and commercial merit and feasibility of the idea, as evidenced by the first phase and by other relevant information; and

"(C) where appropriate, a third phase—

"(i) in which commercial applications of STTR-funded research or research and development are funded by non-Federal sources of capital or, for products or services intended for use by the Federal Government, by follow-on non-STTR Federal funding awards; and

"(ii) for which awards from non-STTR Federal funding sources are used for the continuation of research or research and development that has been competitively selected using peer review or scientific review criteria;

"(7) the term 'cooperative research and development' means research or research and development conducted jointly by a small business concern and a research institution in which not less than 40 percent of the work is performed by the small business concern,

and not less than 30 percent of the work is performed by the research institution; and

"(8) the term 'research institution' means a nonprofit institution, as defined in section 4(5) of the Stevenson-Wylder Technology Innovation Act of 1980, and includes federally funded research and development centers, as identified by the National Scientific Foundation in accordance with the governmentwide Federal Acquisition Regulation issued in accordance with section 35(c)(1) of the Office of Federal Procurement Policy Act (or any successor regulation thereto)."

(c) **ESTABLISHMENT OF SMALL BUSINESS TECHNOLOGY TRANSFER PROGRAMS BY CERTAIN FEDERAL AGENCIES.**—Section 9 of the Small Business Act (15 U.S.C. 638) is amended by adding at the end the following new subsections:

"(n) **REQUIRED EXPENDITURES FOR STTR BY FEDERAL AGENCIES.**—

"(1) **REQUIRED EXPENDITURE AMOUNTS.**—Each Federal agency which has an extramural budget for research or research and development in excess of \$1,000,000,000 in fiscal year 1994, 1995, or 1996, is authorized to expend with small business concerns—

"(A) not less than 0.05 percent of such budget in fiscal year 1994;

"(B) not less than 0.1 percent of such budget in fiscal year 1995; and

"(C) not less than 0.15 percent of such budget in fiscal year 1996,

specifically in connection with STTR programs which meet the requirements of this section, policy directives, and regulations issued under this section.

"(2) **LIMITATIONS.**—A Federal agency shall not—

"(A) use any of its STTR budget established pursuant to paragraph (1) for the purpose of funding administrative costs of the program, including costs associated with salaries and expenses, or, in the case of a small business concern or a research institution, costs associated with salaries, expenses, and administrative overhead (other than those direct or indirect costs allowable under guidelines of the Office of Management and Budget and the governmentwide Federal Acquisition Regulation issued in accordance with section 25(c)(1) of the Office of Federal Procurement Policy Act); or

"(B) make available for the purpose of meeting the requirements of paragraph (1) an amount of its extramural budget for basic research which exceeds the percentage specified in paragraph (1).

"(3) **EXCLUSION OF CERTAIN FUNDING AGREEMENTS.**—Funding agreements with small business concerns for research or research and development which result from competitive or single source selections other than an STTR program shall not be considered to meet any portion of the percentage requirements of paragraph (1).

"(o) **FEDERAL AGENCY STTR AUTHORITY.**—Each Federal agency required to establish an STTR program in accordance with subsection (n) and regulations issued under this Act, shall—

"(1) unilaterally determine categories of projects to be included in its STTR program;

"(2) issue STTR solicitations in accordance with a schedule determined cooperatively with the Administration;

"(3) unilaterally determine research topics within the agency's STTR solicitations, giving special consideration to broad research topics and to topics that further 1 or more critical technologies, as identified—

"(A) by the National Critical Technologies Panel (or its successor) in reports required



under section 603 of the National Science and Technology Policy, Organization, and Priorities Act of 1976; or

"(B) by the Secretary of Defense, in accordance with section 2522 of title 10, United States Code;

"(4) unilaterally receive and evaluate proposals resulting from STTR solicitations;

"(5) unilaterally select awardees for its STTR funding agreements and inform each awardee under such an agreement, to the extent possible, of the expenses of the awardee that will be allowable under the funding agreement;

"(6) administer its own STTR funding agreements (or delegate such administration to another agency);

"(7) make payments to recipients of STTR funding agreements on the basis of progress toward or completion of the funding agreement requirements and, in all cases, make payment to recipients under such agreements in full, subject to audit, on or before the last day of the 12-month period beginning on the date of the completion of such requirements;

"(8) submit an annual report on the STTR program to the Administration and the Office of Science and Technology Policy;

"(9) develop a model agreement not later than July 31, 1993, to be approved by the Administration, for allocating between small business concerns and research institutions intellectual property rights and rights, if any, to carry out follow-on research, development, or commercialization;

"(10) develop, in consultation with the Office of Federal Procurement Policy and the Office of Government Ethics, procedures to ensure that federally funded research and development centers (as defined in subsection (e)(8)) that participate in STTR agreements—

"(A) are free from organizational conflicts of interests relative to the STTR program;

"(B) do not use privileged information gained through work performed for an STTR agency or private access to STTR agency personnel in the development of an STTR proposal; and

"(C) use outside peer review, as appropriate; and

"(11) not later than July 31, 1993, develop procedures for assessing the commercial merit and feasibility of STTR proposals, as evidenced by—

"(A) the small business concern's record of successfully commercializing STTR or other research;

"(B) the existence of second phase funding commitments from private sector or non-STTR funding sources;

"(C) the existence of third phase follow-on commitments for the subject of the research; and

"(D) the presence of other indicators of the commercial potential of the idea.

"(p) STTR POLICY DIRECTIVE.—

"(1) ISSUANCE.—The Administrator shall issue a policy directive for the general conduct of the STTR programs within the Federal Government. Such policy directive shall be issued after consultation with—

"(A) the heads of each of the Federal agencies required by subsection (n) to establish an STTR program;

"(B) the Commissioner of Patents and Trademarks; and

"(C) the Director of the Office of Federal Procurement Policy.

"(2) CONTENTS.—The policy directive required by paragraph (1) shall provide for—

"(A) simplified, standardized, and timely STTR solicitations;

"(B) a simplified, standardized funding process that provides for—

"(i) the timely receipt and review of proposals;

"(ii) outside peer review, if appropriate;

"(iii) protection of proprietary information provided in proposals;

"(iv) selection of awardees;

"(v) retention by a small business concern of the rights to data generated by the concern in the performance of an STTR award for a period of not less than 4 years;

"(vi) continued use by a small business concern, as a directed bailment, of any property transferred by a Federal agency to the small business concern in the second phase of the STTR program for a period of not less than 2 years, beginning on the initial date of the concern's participation in the third phase of such program;

"(vii) cost sharing;

"(viii) cost principles and payment schedules; and

"(ix) 1-year awards for the first phase of an STTR program, generally not to exceed \$100,000, and 2-year awards for the second phase of an STTR program, generally not to exceed \$500,000, greater or lesser amounts to be awarded at the discretion of the awarding agency;

"(C) minimizing regulatory burdens associated with participation in STTR programs;

"(D) guidelines for a model agreement, to be used by all agencies, for allocating between small business concerns and research institutions intellectual property rights and rights, if any, to carry out follow-on research, development, or commercialization;

"(E) procedures to ensure that—

"(i) a recipient of an STTR award is a small business concern, as defined in section 3 and the regulations promulgated thereunder; and

"(ii) such small business concern exercises management and control of the performance of the STTR funding agreement pursuant to a business plan providing for the commercialization of the technology that is the subject matter of the award; and

"(F) procedures to ensure, to the extent practicable, that an agency which intends to pursue research, development, or production of a technology developed by a small business concern under an STTR program enters into follow-on, non-STTR funding agreements with the small business concern for such research, development, or production."

(d) TIMING OF ISSUANCE OF POLICY DIRECTIVE.—The policy directive required by section 9(p) of the Small Business Act (as added by subsection (c) of this section) shall be published—

(1) in proposed form (with an opportunity for public comment of not less than 30 days), not later than April 30, 1993; and

(2) in final form, not later than July 31, 1993.

(e) REPORT OF THE COMPTROLLER GENERAL.—Not later than March 31, 1996, the Comptroller General of the United States shall submit a report to the Congress and the head of each agency that is required to make expenditures under the STTR program that—

(1) sets forth the Comptroller General's assessment, with respect to each such agency, of—

(A) the quality of research performed under funding agreements awarded by that

agency under the STTR program since the beginning of the program;

(B) whether or not the STTR program has affected the performance of that agency's research programs; and

(C) the commercial potential of research conducted under the STTR program, if sufficient data is available;

(2) contains the Comptroller General's assessment as to the effects of the STTR program, if any, on the research quality and goals of the SBIR program; and

(3) determines the agencies and the federally-funded research and development centers' compliance with the procedures developed under section 9(g)(10) of the Small Business Act, as amended by this section.

### TITLE III—MISCELLANEOUS PROVISIONS

#### SEC. 301. DISCRETIONARY TECHNICAL ASSISTANCE TO SBIR AWARDEES.

(a) IN GENERAL.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended by adding at the end the following new subsection:

"(q) DISCRETIONARY TECHNICAL ASSISTANCE.—

"(1) IN GENERAL.—Each Federal agency required by this section to conduct an SBIR program may enter into an agreement with a vendor selected under paragraph (2) to provide small business concerns engaged in SBIR projects with technical assistance services, such as access to a network of scientists and engineers engaged in a wide range of technologies, or access to technical and business literature available through online data bases, for the purpose of assisting such concerns in—

"(A) making better technical decisions concerning such projects;

"(B) solving technical problems which arise during the conduct of such projects;

"(C) minimizing technical risks associated with such projects; and

"(D) developing and commercializing new commercial products and processes resulting from such projects.

"(2) VENDOR SELECTION.—Annually, each agency may select a vendor for purposes of this subsection using competitive, merit-based criteria, to assist small business concerns to meet the goals listed in paragraph (1).

"(3) ADDITIONAL TECHNICAL ASSISTANCE.—

"(A) FIRST PHASE.—Each agency referred to in paragraph (1) may provide services described in paragraph (1) to first phase SBIR award recipients in an amount equal to not more than \$4,000, which shall be in addition to the amount of the recipient's award.

"(B) SECOND PHASE.—Each agency referred to in paragraph (1) may authorize any second phase SBIR award recipient to purchase, with funds available from their SBIR awards, services described in paragraph (1), in an amount equal to not more than \$4,000 per year.

#### SEC. 302. EXTENSION OF THE TECHNOLOGY TRANSFER DEMONSTRATION PROGRAM.

Section 231 of the Small Business Administration Reauthorization and Amendments Act of 1990 (15 U.S.C. 648 note) is amended—

(1) in subsection (g), by striking "1993" and inserting "1995"; and

(2) in subsection (i), by striking "1991, 1992, and" and inserting "1994 and 1995".

#### SEC. 303. REPORTING REQUIREMENTS.

(a) REPORT ON DEFICIENT SUBCONTRACTING PLANS.—Section 8(d) of the Small Business Act (15 U.S.C. 637(d)) is amended—

(1) by striking paragraph (11); and

(2) by redesignating paragraph (12) as paragraph (11).

(b) **SMALL PURCHASES FROM FEDERAL PRISON INDUSTRIES.**—Section 4124(c) of title 18, United States Code, is amended in the first sentence by striking "to the General Services Administration" and all that follows through "Procurement Policy Act" and inserting "acquisitions of products and services from Federal Prison Industries to the Federal Procurement Data System (as referred to in section 6(d)(4) of the Office of Federal Procurement Policy Act) in the same manner as it reports other acquisitions".

#### SEC. 304. SMALL BUSINESS INSTITUTES.

Section 8(b)(1) of the Small Business Act (15 U.S.C. 637(b)(1)) is amended—

(1) by redesignation subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively; and

(2) by inserting after subparagraph (D) the following:

"(E) In carrying out its functions under subparagraph (A), to make grants (including contracts and cooperative agreements) to any public or private institution of higher education for the establishment and operation of a small business institute, which shall be used to provide business counseling and assistance to small business concerns through the activities of students enrolled at the institution, which students shall be entitled to receive educational credits for their activities."

#### SEC. 305. ADDITIONAL SBIR AND STTR PROVISIONS.

Section 9 of the Small Business Act (15 U.S.C. 638), is amended by adding at the end the following new subsection:

"(r) **THIRD PHASE AGREEMENTS.**—

"(1) **IN GENERAL.**—In the case of a small business concern that is awarded a funding agreement for the second phase of an SBIR or STTR program, a Federal agency may enter into a third phase agreement with that business concern for additional work to be performed during or after the second phase period. The second phase funding agreement with the small business concern may, at the discretion of the agency awarding the agreement, set out the procedures applicable to third phase agreements with that agency or any other agency.

"(2) **DEFINITION.**—In this subsection, the term 'third phase agreement' means a follow-on, non-SBIR or non-STTR funded contract as described in paragraph (4)(C) or paragraph (6)(C) of subsection (e).

"(3) **INTELLECTUAL PROPERTY RIGHTS.**—Each funding agreement under an SBIR or STTR program shall include provisions setting forth the respective rights of the United States and the small business concern with respect to intellectual property rights and with respect to any right to carry out follow-on research."

#### SEC. 306. SENSE OF THE CONGRESS CONCERNING AMERICAN-MADE EQUIPMENT AND PRODUCTS.

(a) **PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.**—It is the sense of the Congress that an entity that is awarded a funding agreement under the SBIR program of a Federal agency under section 9 of the Small Business Act should, when purchasing any equipment or a product with funds provided through the funding agreement, purchase only American-made equipment and products, to the extent possible in keeping with the overall purposes of that program.

(b) **NOTICE TO SBIR Awardees.**—Each Federal agency that awards funding agreements

under the SBIR program shall provide to each recipient of such an award a notice describing the sense of the Congress, as set forth in subsection (a).

#### SEC. 307. TECHNICAL CORRECTIONS.

(a) **SMALL BUSINESS PARTICIPATION RATES.**—Section 714(b)(4) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note, 102 Stat. 3892) is amended by inserting "or other services in support of such contracts" after "(including surveying and mapping)".

(b) **MICROLOAN PROGRAM FUNDING.**—Section 7(m)(7) of the Small Business Act (15 U.S.C. 636(m)(7)) is amended—

(1) in subparagraph (A), by adding at the end the following: "If, at the end of fiscal year 1992, the Administration has funded less than 50 microloan programs under this subparagraph, the Administration may, in fiscal year 1993, fund a number of additional microloan programs equal to the difference between 50 and the number of microloan programs actually funded in fiscal year 1992."; and

(2) in subparagraph (B), by striking "In the second" and inserting "In addition to any microloan programs authorized to be funded in fiscal year 1993 in accordance with subparagraph (A), in the second".

(c) **DEFINITION OF INTERMEDIARY.**—Section 7(m)(11)(A)(ii) of the Small Business Act (15 U.S.C. 636(m)(11)(A)(ii)) is amended by inserting "private," before "nonprofit".

(d) **SECONDARY LOAN MARKETS.**—Section 5(f)(4) of the Small Business Act (15 U.S.C. 634(f)(4)) is amended by striking "5(e), 7(a)(6), or 7(a)(8)" and inserting "7(a)(6)(C) or subsection (e) of this section".

### HEALTH CARE FRAUD PROSECUTION ACT OF 1992

#### BIDEN AMENDMENT NO. 3399

Mr. FORD (for Mr. BIDEN) proposed an amendment to the bill (S. 2652) to provide enhanced penalties for commission of fraud in connection with the provision of or receipt of payment for health care services, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Health Care Fraud Prosecution Act of 1992".

#### SEC. 2. INCREASED PENALTIES FOR HEALTH CARE FRAUD.

(a) **OFFENSE.**—Part I of title 18, United States Code, is amended by inserting after chapter 50A the following new chapter:

#### "CHAPTER 50B—HEALTH CARE FRAUD

"Sec.

"1101. Health care fraud.

"1102. Penalties.

"1103. Restitution.

#### "§ 1101. Health care fraud

"(a) **DEFINITION.**—In this section, the term 'health care provider' means—

"(1) a physician, nurse, dentist, therapist, pharmacist, or other professional provider of health care; and

"(2) a hospital, health maintenance organization, pharmacy, laboratory, clinic, or other health care facility or a provider of medical services, medical devices, medical equipment, or other medical supplies.

"(b) **OFFENSE.**—A health care provider or other person that engages in conduct con-

stituting an offense under section 1341 or 1343 for the purpose of or in connection with the provision of health care services or supplies or the payment therefor or reimbursement of the costs thereof, when—

"(1) the amount of loss caused by the fraudulent conduct exceeds \$10,000; or

"(2) the offender had previously been convicted of fraud in Federal or State court, shall be fined under this title, imprisoned in accordance with section 1102, or both.

#### "§ 1102. Penalties

"(a) **IN GENERAL.**—In the case of an offense under section 1101 not described in subsection (b) or (c), the offender shall be sentenced to a term of imprisonment of not more than 10 years.

"(b) **SERIOUS PHYSICAL INJURY OR ENDANGERMENT OF LIFE OF PATIENT.**—In the case of an offense under section 1101 that—

"(1) caused serious physical injury to a patient; or

"(2) endangered the life of a patient,

the offender shall be sentenced to a term of imprisonment of not more than 20 years.

"(c) **DEATH OF PATIENT.**—In the case of an offense under section 1101 that caused the death of a patient, the offender shall be sentenced to a term of imprisonment of not more than life.

#### "§ 1103. Restitution

"In sentencing an offender convicted under section 1101, the court—

"(1) shall order the offender to pay restitution to the patient and, if the payor was the United States, to the payor, for loss sustained as a result of the offender's fraudulent activity; and

"(2) may order the offender to pay restitution to others who sustained losses as a result of the offender's fraudulent activity."

(b) **TECHNICAL AMENDMENT.**—The part analysis for part I of title 18, United States Code, is amended by inserting after the item for chapter 50A the following new item:

"50B. Health care fraud."

#### SEC. 3. FORFEITURE OF FRAUD PROCEEDS.

Section 982(a) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(5) The court, in imposing sentence on a person convicted of an offense or of conspiring to commit an offense under—

"(A) section 1101;

"(B) section 301(t) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(t)); or

"(3) section 301 (a), (b), (c), or (k) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331 (a), (b), (c), and (k)), if the offense or conspiracy involved a drug and was done with intent to defraud or mislead any person or entity,

shall order that the offender forfeit to the United States any real or personal property constituting or derived from proceeds that the offender obtained directly or indirectly as the result of the offense."

#### SEC. 4. REWARDS FOR INFORMATION LEADING TO PROSECUTION AND CONVICTION.

Section 3059 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) In special circumstances and in the Attorney General's sole discretion, the Attorney General may make a payment of up to \$10,000 to a person who furnishes information unknown to the Government relating to a possible prosecution under section 1101.

"(2) A person is not eligible for a payment under paragraph (1) if—



"(A) the person is a current or former officer or employee of a Federal or State government agency or instrumentality who furnishes information discovered or gathered in the course of government employment;

"(B) the person knowingly participated in the offense;

"(C) the information furnished by the person consists of allegations or transactions that have been disclosed to the public—

"(i) in a criminal, civil, or administrative proceeding;

"(ii) in a congressional, administrative or General Accounting Office report, hearing, audit, or investigation; or

"(iii) by the news media, unless the person is the original source of the information; or

"(D) when, in the judgment of the Attorney General, it appears that a person whose illegal activities are being prosecuted or investigated could benefit from the award.

"(3) For the purposes of paragraph (2)(C)(iii), the term 'original source' means a person who has direct and independent knowledge of the information that is furnished and has voluntarily provided the information to the Government prior to disclosure by the news media.

"(4) Neither the failure of the Attorney General to authorize a payment under paragraph (1) nor the amount authorized shall be subject to judicial review."

#### SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated in fiscal year 1993 for the purposes of carrying out the purposes of this Act and the amendments made by this Act—

(1) \$20,000,000 for the Federal Bureau of Investigation to hire, equip, and train no fewer than 200 special agents and support staff to investigate health-care fraud cases;

(2) \$5,000,000 to hire, equip, and train no fewer than 50 Department of Justice attorneys, assistant United States Attorneys, and support staff to prosecute health-care fraud cases; and

(3) \$5,000,000 to hire, equip, and train no fewer than 50 investigators and support staff in the Office of Inspector General, Department of Health and Human Services, to be devoted exclusively to health-care fraud cases.

#### SEC. 6. BROADENING APPLICATION OF MAIL FRAUD STATUTE.

Section 1341 of title 18, United States Code, is amended—

(1) by inserting "or deposits or causes to be deposited any matter or thing whatever to be sent or delivered by any private or commercial interstate carrier," after "Postal Service,"; and

(2) by inserting "or such carrier" after "causes to be delivered by mail".

#### SEC. 7. RULE OF CONSTRUCTION.

Nothing in this Act or the amendments made by this Act shall be construed to affect any right that a person may have to bring a civil action for the person and for the United States Government under section 3730 of title 31, United States Code, or any other law, based on an act or omission that may constitute an offense under section 1101 of title 18, United States Code, as added by section 2.

#### SEC. 8. SENSE OF THE SENATE.

It is the sense of the Senate that—

(1) lawsuits under the False Claims Act (sections 3729 and 3730 of title 31, United States Code), including the qui tam provisions, should be used to their full effect in combating health care fraud against the Government;

(2) the United States Sentencing Commission should modify the sentencing guidelines relating to frauds to prescribe offense levels for health care fraud committed in violation of section 1101 of title 18, United States Code, that are commensurate with the seriousness of a fraud of that nature, as reflected in the increased maximum penalties authorized in section 1102 of that title; and

(3) the Attorney General should promulgate prosecution guidelines to ensure that health care providers are not prosecuted under this Act for bookkeeping errors or accidental billing mistakes.

#### SEC. 9. GRANTS.

(a) FRAUD CONTROL UNITS.—The Attorney General, acting through the Director of the Bureau of Justice Assistance, may make grants to States and units of local government for the purpose of creating health care fraud control units for the purpose of investigating, and assisting such units in investigating, health care fraud and abuse.

(b) MEDICAL SOCIETIES.—The Attorney General, acting through the Director of the Bureau of Justice Assistance, may make grants to State medical societies for the development and implementation of programs designed to combat health care fraud.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal years 1993 and 1994 such sums as are necessary to carry out subsections (a) and (b).

### ADDITIONAL STATEMENTS

#### THE PEORIA JOURNAL-STAR MARKS A BUDGET "MILESTONE"

• Mr. SIMON. Mr. President, the beginning of the new Federal fiscal year on October 1 marked an inglorious budget milestone for the Nation. For the first time in our history, we have begun to spend more of our Federal budget on gross interest payments than on any other spending category—more even than on defense or Social Security.

These huge and growing interest payments are a deplorable waste of resources and tax dollars. They are strangling the Nation's ability to respond to our urgent needs in education, in job training, in health care, in our infrastructure.

Because of the paramount significance of the spiraling growth of these interest payments to our economic vitality and to our future, this basic budget fact deserves the attention of every citizen and every voter. Why, then, did this milestone come and go on October 1 without acknowledgment by the White House or in the Congress, or even on most editorial pages? The reason is that controlling the deficit will take strenuous effort and will risk political pain.

As my colleagues know, I do not believe the political will for concerted action on the deficit is likely to be mustered among our constituents or their elected leaders without the discipline of a constitutional amendment to restore the Federal budget to a pay-as-you-go basis, unless 60 percent of the Congress votes to the contrary. I will

be reintroducing the balanced budget constitutional amendment in the 103d Congress.

One newspaper that did mark this milestone and describe its significance is the Peoria Journal-Star, and I hope that other newspapers will follow its example.

I ask that the editorial be printed in the RECORD, and I call it to the attention of my colleagues and to others who may see it here.

The editorial follows:

[From the Peoria Journal-Star, Oct. 1, 1992]

#### HERE'S WHERE YOUR FEDERAL TAXES GO

We couldn't let the first day of the new federal budget year pass without this depressing note:

For the first time in the history of the country, interest payments will consume more of your federal tax dollar than any other item. Some milestone!

For those of you who like numbers, here are the big three, courtesy of the Federal Office of Management and Budget: Gross interest: \$307.5 billion; Social Security: \$300.7 billion; and Defense: \$291.8 billion.

Gross interest, of course, buys the nation nothing. No highways, no schools, no college educations, no reconstruction of cities, no health care for the uninsured, no rooms for the homeless, no jobs for the jobless. It pays for what we bought earlier, mostly in the 1980s, when we were too selfish, foolish and gutless to pay for what we wanted with current dollars. It is, as much as anything else, a transfer of wealth, from the wallets of today's taxpayer to the accounts of those with money to lend.

Sixty cents on the dollar Americans pay in individual income taxes goes to service the debt. The interest burden is nearly triple all of the corporate income taxes collected.

The debt is the primary reason we are powerless now to fight the recession with public investment, in infrastructure and public works, or with private investment through lower taxes and increased borrowing. It makes every problem we face—from health care to urban decay—extraordinarily more difficult to solve.

This is not a day to celebrate.♦

#### COMMONWEALTH OF INDEPENDENT STATES SCIENTISTS IMMIGRATION ACT

• Mr. BROWN. Mr. President, I would like to commend the House and the Senate for the final passage late last night of the Soviet Scientists Immigration Act of 1992. I would especially like to commend my colleague from Kansas, Senator DOLE, for his strong support from the outset, and also for the important assistance of the Senator from New York, Senator MOYNIHAN. Congressman BEREUTER of Nebraska was an able and effective ally in the House of Representatives, and guided this bill past many difficult opponents.

With the collapse of the Soviet Union and the emergence of the Commonwealth of Independent States [CIS], some of the Commonwealth's best and brightest scientists have encountered real hardship—unemployment, food

shortages, and a future of great uncertainty. Many are increasingly skeptical that free market reform will yield concrete benefits for the near term. Reports indicate Iran, Libya, North Korea and other irresponsible nations bent on developing weapons of mass destruction have made overtures to these scientists hoping to lure them to their nuclear research labs.

The final passage of this act is a significant step in creating alternatives to jobs in rogue nations in the Middle East. It waives the job offer requirement for scientists from the former Soviet Union with expertise in nuclear technology as well as broadening the classification of those with exceptional ability. Both of these changes to current immigration law will make it easier for scientists of the Commonwealth of Independent States to come to the United States, without endangering American jobs here.

Other aspects of the original proposal have either been undertaken by the administration already or are under consideration by the administration, and have consequently been removed from the final version of the bill. The first recommendation, that some of the money allocated for destruction of Soviet nuclear weapons be used to keep the scientists gainfully employed in research and other projects necessary for transition to a peaceful, high-tech economy, was adopted in large part in the plan announced by Secretary Baker earlier this year. The administration's plan will establish two scientific research centers for these scientists, one in Russia and one in the Ukraine. Clearly, this is a step forward. However, it is the hope of the authors of this bill that these projects will enhance the objectives of nonproliferation of weapons of mass destruction. And, furthermore, that the byproducts of such research be designed to enhance American competitiveness as well as provide returns to the taxpayer to the greatest extent possible.

The second recommendation included in the original bill language urged the administration to put these scientists at the front of the line for international exchange programs they are currently eligible for, especially ones that will permit them to cross-train into another specialty, including business or law. It is our hope and intent that, even though this admonition is absent from the current bill for procedural reasons, the executive branch will make every effort to format its exchange programs to accommodate these scientists.

Mr. President, the final passage of this small but important piece of legislation is a significant step forward. I want to thank my colleagues for their assistance, especially Senator SIMPSON, the ranking Republican on the Immigration Subcommittee of the Judiciary Committee and his staff, initially Carl

Hampe and now Cordia Strom. I would also like to thank Senator KENNEDY, the chairman of the subcommittee, and Michael Myers of his staff for their assistance. •

#### MAKING WELFARE WORK: A FAMILY APPROACH

• Mr. HARKIN. Mr. President, public assistance rolls are skyrocketing after nearly two decades of minimal growth. The number of families receiving aid to families with dependent children [AFDC], which provides cash to poor families, grew from 3.1 to 3.7 million between 1973 and 1989, an increase of only 600,000. After 1989, the figures turned steeply upward. By October 1991, 4.6 million families were receiving welfare, an increase of 24 percent in only 2 years.

As the number of welfare recipients has increased, so has the cost to taxpayers. Some State legislators have responded to the increase in welfare expenditures by proposing harsh, paternalistic approaches that seek to break dependence on welfare by punitive measures, including penalties aimed at women who become pregnant while on public assistance.

In contrast, other legislators, philanthropic organizations, and community action agencies have responded to the increase in poverty and welfare with a renewed effort to examine the effectiveness of social services for low-income children and families. These leaders argue that our current approach to human services is fragmented and scattered and, as a result, it is wasteful and ineffective. We have hundreds of separate programs, each to address a different need, yet these isolated efforts often fail because they do not take into account that many of the people served have multiple problems. Moreover, leaders of the service integration movement argue that the needs of children in particular may be impossible to solve if the family as a unit is not taken into account; we simply cannot isolate children's needs from the needs of their families.

Activities are now under way at the local, State, and national levels, under both public and private auspices, to integrate and coordinate services across systems, and to make services more responsive to the needs of children and families. A recent report entitled "Making Welfare Work: A Family Approach" represents a qualitative assessment of a major initiative of this kind, the Iowa Family Development and Self-Sufficiency [FaDSS] Demonstration Grant Program. The report, prepared by former Iowa State Senator Charles Bruner and his colleagues at the Child and Family Policy Center of Des Moines, is both enlightening and genuinely encouraging. Reflecting initial discoveries the Iowa program has made by working with AFDC families

in a holistic, comprehensive way, "Making Welfare Work" indicates that progress is forthcoming in the fight to engender self-sufficiency among families characterized by chronic dependence on public assistance.

In 1987, both the Iowa General Assembly and Iowa Gov. Terry Branstad made welfare reform a priority for the 1988 legislative session. The FaDSS Grant Program emerged from the general assembly's welfare reform interim committee as one of several State welfare reform initiatives. The FaDSS Program embodies a simple premise—that families bring more than employment need into the welfare office, including needs relating to family budgeting, nutrition, health and hygiene, parent-child relations, substance abuse, food, clothing, and housing. Evidence indicates this is especially true of families that are chronically dependent on public assistance. Nonetheless, the Federal Job Opportunity and Basic Skills [JOBS] Program of the Family Support Act, the major welfare reform legislation of the last decade, emphasizes employment skills and job training while neglecting the social and psychological needs both children and adults in households receiving aid to families with dependent children [AFDC].

Breaking with the tradition of our fragmented social service system, the Iowa FaDSS demonstration programs represent a new, noncategorical approach to working with the neediest families. The enabling legislation prescribed a list of elements that grant proposals should address, pointing grantees toward providing comprehensive, community-based, and family-centered support. Another key element of the 10 FaDSS demonstration programs that have been funded is a new worker, a family development specialist, who serves as a partner to families in their work toward self-sufficiency. Rather than operating in a clinical manner, family development specialists work with families across a range of social and economic concerns. They help clients define and obtain the services they need most, they serve as a reality check in helping the family define its goals, and they encourage the family to identify its strengths and accomplishments. While family development specialists may refer families to outside professionals—for substance abuse treatment, mental health counseling and the like—the nonclinical orientation of the specialists is designed to produce trusting relationships with clients, and to underscore the family's responsibility and self-confidence in their ability to independently meet their needs.

While the Iowa FaDSS programs are relatively young, the Bruner report outlines a number of valuable lessons to be drawn from the 10 sites. Initial evidence suggests that families do, in-



deed, bring more than employment and training needs into the welfare office. Moreover, these data indicate that it is possible to target a subset of the AFDC population whose long-term needs for public support are sufficient to warrant significant investments in interventional, comprehensive services that go beyond economic viability to address parent and child social development and interaction. In order to achieve true progress in righting the course of troubled families, family development specialists must receive training and staff support commensurate with the great deal of discretion required of them. Also, rather than providing services to families, the family development specialists are most effective as partners with families, helping them to set goals and identify personal decisions at critical points in their growth and development.

The FaDSS Program represents a fundamentally different approach to welfare reform, and the findings described in this report should become an integral part of the debate on State and Federal efforts to facilitate self-sufficiency among families on public assistance. An essential contribution to that debate is the argument, made by Bruner and his colleagues, that comprehensive family development strategies demand a new form of evaluation that can capture gains across several important dimensions of individual functioning and social services. FaDSS programs are designed to improve outcomes for families on AFDC, but these improved outcomes may be in a number of areas, including welfare independence, employment, parent-child interaction, child development, and family stability. In the search to deliver effective services, and so promote self-sufficiency, the "challenge to evaluation is to capture \*\*\* 'added value' everywhere it occurs."•

#### THE STRUGGLE OF LATIN-RITE CATHOLICS IN RUSSIA

• Mr. DECONCINI. Mr. President, believers of many faiths, including Latin-rite Catholics, suffered great hardship during seven decades of state-sponsored atheism in the former Soviet Union. Prior to 1917, there were 150 Latin-rite Catholic parishes in the European part of Russia.

Despite imprisonment, deportation, exile, and various forms of discrimination, believers in Russia, and elsewhere were strengthened by their faith and remained steadfast in their beliefs. The condition of believers in Russia has improved significantly in recent years. Nevertheless, the legacy of the past has not disappeared entirely.

I recently received information from Archbishop Tadeusz Kondrusiewicz on the continuing struggle of Latin-rite Catholics in Russia. Archbishop Kondrusiewicz was appointed by Pope

John Paul II last year to serve as administrator for Latin-rite Catholics of the European part of Russia. As co-chairman of the Helsinki Commission I am particularly concerned over reports that these Catholics are being denied their right to establish and maintain places of worship in keeping with existing CSCE commitments.

While Latin-rite Catholic parishioners have been allowed to register and are free to worship in Russia today, many continue to be deprived of places to worship. Church buildings which were not razed by the Communists were often converted into offices, apartments, warehouses, or used for other purposes. In Moscow, for example, the churches of Sts. Peter and Paul and the Immaculate Conception are being used by technical institutes. In Kaliningrad there are three churches: Holy Family, used as a concert hall, St. Joseph's, used as a building supply factory, and St. Wojtech's, used as a research institute. In Piatigorsk, the Church of the Transfiguration has been leased to an evangelical group. These are but a few examples, though I should point out that the total number of church buildings is rather small.

Archbishop Kondrusiewicz's efforts to have existing church structures returned or permission granted for the construction of new churches have been impeded by bureaucratic foot dragging. As a result many Latin-rite Catholics have been forced to celebrate mass and conduct other religious activities outdoors or in cramped apartments, denied possession or use of their churches.

I urge the Russian authorities to review this matter and to facilitate the return of these churches without further delay. •

• Mr. RIEGLE. Mr. President, in February 1990, the world hailed the South African Government's release of Nelson Mandela. Many viewed this historic event as a sign that President F.W. de Klerk was ready to begin serious negotiations to end the violence that led to the deaths of more than 52,000 people between 1984 and 1990. In the months following Mandela's liberation, President de Klerk further raised the hopes of apartheid's foes by ending the national state of emergency, releasing over 5,000 political prisoners and lifting a ban on democratic parties. De Klerk's actions prompted President Bush to lift sanctions imposed by the United States in 1986 and cleared the way for formal negotiations between the ANC and the South African Government which began in December 1991.

Despite this progress, South Africa remains mired in brutal, internecine conflict. Violence, which has marked the South African political scene for years, has escalated greatly under de Klerk's government. On June 17, 1992, in a particularly savage event in the township of Boipatong, between 39 and

50 people, including infants and a pregnant woman, were massacred. The indifference, and possible complicity, of South African security forces in this tragic incident represented a major setback for the reform process in South Africa.

Only 3 months after President de Klerk initiated measures to quell the violence that caused the deaths at Boipatong, another slaughter in the black homeland of Ciskei occurred. On September 17, Oupa Gqozo, the military leader of Ciskei—an entity artificially created and backed by the South African Government—ordered most of his white-officered police force to open fire on a crowd of 50,000 peaceful demonstrators. After a barrage of automatic gunfire, lasting more than two minutes, 28 protestors lay dead. Many of those killed were shot in the back on South African soil, across the border with Ciskei, as they ran from Gqozo's forces.

The persistent violence has taken its toll on the talks to reform South Africa's constitution and government structure. Faced with Pretoria's indifference to black on black violence and a lack of negotiating progress, the ANC called off the second round of formal constitutional negotiations, known as the Convention for a Democratic South Africa [CODESA].

While the recent meeting between President de Klerk and ANC leader Mandela seems to have put the negotiating process back on track, institutional and social barriers denying blacks fundamental rights endure. Indeed, the basic facts have not changed: Blacks still do not have the right to vote; thousands of exiles may not return to their homes in South Africa; and, the economic disparity between whites and blacks is as large as ever. The vast majority of South African whites still have well-paying jobs and live comfortable middle-class lives. Most blacks, on the other hand, live in squalor and endure very high levels of unemployment. Yes, there has been progress in removing the legal framework underpinning apartheid. But, the struggle does not end there. America must demand that blacks not be denied the right to play a fair and equal role in governmental decisionmaking and constitutional reform.

President Bush lifted the 1986 sanctions with high hopes for reform. All too often, though, our aspirations have been dashed by disappointing breakdowns in constitutional negotiations or yet another massacre. While I welcome the reinvigorated spirit of cooperation represented by the de Klerk-Mandela meetings, let us remember that the burden remains upon Pretoria as the parties negotiate to eliminate racial discrimination in South Africa. Before the United States revokes remaining sanctions on South Africa, more fundamental change is necessary. I stand

with the long oppressed majority in South Africa. The United States must not lift pressure on South Africa until meaningful reform occurs.●

ORDERS FOR MONDAY, OCTOBER 5, 1992

Mr. FORD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:30 a.m., Monday, Octo-

ber 5, that following the prayer, the Journal of proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day, that there then be a period for morning business, not to extend beyond 10 a.m., with Senators permitted to speak therein for up to 5 minutes and that Senator ADAMS be recognized for up to 30 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9:30 A.M. MONDAY,  
OCTOBER 5, 1992

Mr. FORD. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 4:25 p.m., recessed until Monday, October 5, 1992, at 9:30 a.m.